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Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

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General Notice

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DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 78-478)

Special Classes of Merchandise—Customs Regulations Amended

Section 12.80, Customs Regulations, relating to the importation of motor vehicles and motor vehicle equipment, amended

TITLE 19—CUSTOMS DUTIES

CHAPTER I—U.S. CUSTOMS SERVICE

PART 12—SPECIAL CLASSES OF MERCHANDISE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to procedures for entry into the United States of motor vehicles and motor vehicle equipment subject to Federal motor vehicle safety standards prescribed by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966, as amended. The most significant change is the requirement that the importer or consignee of each vehicle or equipment item imported into the United States must file a declaration concerning compliance with the motor vehicle safety standards. The requirement may be waived by the district director of Customs for United States-, Canadian-, or Mexican-registered vehicles arriving via land borders which: (1) Were manufactured before applicable safety standards were in force; (2) conform to applicable safety standards and bear the required certification label or tag; or (3) are intended solely for export. Other changes include an extension of the time which a nonconforming vehicle imported solely for purposes of test or experiment may be licensed for use on the public roads and an extension of the time allowed for the submission of a conformity statement, which will be forwarded to the National Highway Traffic Safety Administration (NHTSA) by Customs, for a nonconforming vehicle. Also, if Customs does not receive a bond release letter from NHTSA for a nonconforming vehicle or equipment item

within 180 days after entry, it will issue a notice of redelivery for the vehicle or equipment item.

EFFECTIVE DATE: January 3, 1978.

FOR FURTHER INFORMATION CONTACT: John E. O'Rourke, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202–566–5354.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 12.80 of the Customs Regulations (19 CFR 12.80) prescribes procedures for the entry into the United States of motor vehicles ("vehicles") and motor vehicle equipment ("equipment items") subject to the Federal motor vehicle safety standards published by the Department of Transportation in 49 CFR part 571 under the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381, et seq.) ("the act").

After carefully examining these procedures, the Customs Service ("Customs") and the National Highway Traffic Safety Administration ("NHTSA") determined that substantive changes should be made to aid in the effective administration and enforcement of the act. Accordingly, on November 20, 1975, Customs published a notice of proposed rulemaking in the Federal Register (40 F.R. 54002). Interested persons were given until January 22, 1976, to submit relevant written data, views, or arguments. Several commenters, although agreeing in principle with the proposal, raised questions or made suggestions that have resulted in changes to the amendment as proposed.

DISCUSSION OF MAJOR COMMENTS

MUST A DECLARATION BE SUBMITTED FOR EACH VEHICLE OR EQUIPMENT ITEM?

Several commenters objected to the requirement in proposed section 12.80(b)(1) that a separate declaration be submitted for each vehicle or equipment item offered for importation into the United States. It was suggested that this requirement would result in a large paperwork increase for Customs, NHTSA, and the importer or consignee.

Customs now accepts a single declaration for all vehicles or equipment items on a single entry to which the same declaration relates if identifying information required for each vehicle or equipment item is furnished. Identifying information may be furnished as an attachment to the declaration if the Customs entry number appears on the attachment to clearly identify it as part of the declaration. A separate

declaration is not required for each vehicle or equipment item. Section 12.80(c)(4) make it clear that a declaration may relate to more than one vehicle or equipment item.

MUST A DECLARATION BE SUBMITTED FOR VEHICLES OR EQUIPMENT ITEMS WHICH CONFORM OR ARE TO BE EXPORTED?

Several commenters questioned the need for a declaration for—(1) A vehicle or equipment item which conforms to all applicable safety standards and has a certification label attached (proposed sec. 12.80 (b)(1)(i)); and (2) a vehicle or equipment item intended solely for export and merely being shipped through the United States (proposed sec. 12.80(b)(1)(ii)).

A declaration is required for a vehicle or equipment item entered under these circumstances to relieve Customs officers from examining each vehicle or equipment item to determine if the appropriate label or tag has been affixed and to discourage the use of false labels or tags. This change to the present regulations will more closely align the declaration procedure used for the Federal motor vehicle safety standards with that used for the Federal motor vehicle emission standards in section 12.73 of the Customs Regulations (19 CFR 12.73).

COULD ONE DECLARATION BE USED FOR BOTH THE NHTSA SAFETY STANDARDS AND THE EPA EMISSION STANDARDS?

Inasmuch as the importer must now complete one declaration form for NHTSA and another for the Environmental Protection Agency (EPA), several commenters suggested that consideration should be given to the development of a combined form for use by both agencies.

These agencies have considered a combined form, and have concluded that it is not feasible at this time because of the many differences in the National Traffic and Motor Vehicle Safety Act of 1966, as amended, enforced by NHTSA, and the Clean Air Act, as amended, enforced by EPA, relating to imported vehicles and equipment items, and in the regulations of the two agencies implementing these acts.

MUST A BOND BE REQUIRED FOR A VEHICLE OR EQUIPMENT ITEM WHICH WAS NOT MANUFACTURED IN CONFORMITY BUT WHICH HAS BEEN BROUGHT INTO CONFORMITY BEFORE ENTRY?

Two commenters stated that the requirement in proposed section 12.80(c)(1) for posting a bond for the entry, under proposed section 12.80(b)(1)(iv), of a conforming vehicle or equipment item not originally manufactured in conformity, but which has been put into conformity with applicable safety standards before entry is unwarranted. They noted that the importer is required to declare that the

vehicle or equipment item will be brought into conformity with the safety standards prior to sale. Because a false declaration subjects the violator to a possible $10,000 fine, or imprisonment, or both, under 18 U.S.C. 1001, the commenters questioned the need for the bond.

This bond requirement, provided for in 15 U.S.C. 1397(b)(3), is essentially similar to the present bond requirement in section 12.80(c) for a vehicle or equipment item not conforming to applicable safety standards entered under present section 12.80(b)(2)(iii). Enforcement of the safety standards would be extremely difficult without the control given by the bonding procedure over the submission of false or inaccurate conformance information. Therefore, a bond is being required under sections 12.80(e)(1) and 12.80(b)(1)(iii) for all vehicles or equipment items not originally manufactured to comply with the safety standards, and the bond requirement is being extended to include a vehicle or equipment item not manufactured in conformity with applicable safety standards but which has been brought into conformity before entry.

MUST A BOND BE REQUIRED FOR A VEHICLE NOT PROPERLY CERTIFIED?

On commenter objected to the deletion of present section 12.80 (b)(2)(ix), which provides for the entry of a vehicle manufactured in conformity with applicable safety standards but which lacks the proper certification label. Such a vehicle may now be entered without bond if accompanied by a statement of the manufacturer as evidence of original compliance. The commenter contended that the manufacturer's statement of original compliance is as reliable as a certification label affixed to the vehicle.

Customs and NHTSA have reviewed the present procedure and have concluded that the proposed requirement that a bond be furnished for the entry of a conforming but uncertified vehicle, pending affixture of the required certification label, is necessary and aids the effective administration and enforcement of the act. It has been determined that such a vehicle is to be entered under section 12.80 (b)(1)(iii).

IS A BOND REQUIRED FOR A VEHICLE WHICH DOES NOT CONFORM BECAUSE READILY ATTACHABLE EQUIPMENT ITEMS HAVE NOT YET BEEN ATTACHED?

Several commenters were concerned that under proposed sections 12.80(b)(1)(iv) and 12.80(c)(1), a bond would be required for the entry of a vehicle which does not conform to applicable safety standards because readily attachable equipment items necessary for compliance are not attached at the time of entry even though

the vehicle would be brought into conformity before being sold at retail. Such a vehicle is entered without bond under present section 12.80(b)(2)(iv).

Customs and NHTSA have determined that requiring a bond for the entry of such a vehicle would serve no useful purpose. In the vast majority of cases, readily attachable equipment items are attached prior to sale at retail. Therefore, section 12.80(b)(1)(ii) makes it clear that such a vehicle may be entered without bond.

HOW LONG MAY A NONCONFORMING VEHICLE IMPORTED FOR TEST OR EXPERIMENT BE LICENSED FOR USE ON THE PUBLIC ROADS?

Several commenters contended that the time allowed for the use of a nonconforming vehicle on the public roads for test or experiment under proposed section 12.80(b)(1)(vii) is insufficient. The time proposed was 1 year, and, upon application to and approval by the Administrator, NHTSA, 1 additional year.

Customs and NHTSA agree with these commenters. Under item 864.30, Tariff Schedules of the United States (19 U.S.C. 1202), vehicles intended solely for testing, experimental, or review purposes may be entered duty free under bond for 1 year. This period may be extended for up to 2 additional years, upon annual application to and approval by the Administrator, NHTSA.

HOW MUCH TIME SHOULD THE IMPORTER BE GIVEN TO SUBMIT A CONFORMITY STATEMENT?

Several commenters objected to the length of time, provided under proposed section 12.80(c), in which the importer or consignee must produce evidence that a nonconforming vehicle or equipment item has been brought into conformity with applicable safety standards.

Presently, within 90 days, or longer if approved by the district director, the importer or consignee must furnish either a statement that the vehicle or equipment item has been brought into conformity, describing the work performed and identifying the person who did the work, or a statement from the manufacturer certifying original conformity. It had been proposed to increase this time to 120 days with additional time not to exceed 60 days if approved by NHTSA.

The 90-day period has proven to be too short. A vehicle or equipment item is rarely brought into conformity within this period, so requests for extensions of time are liberally granted. Therefore, section 12.80(b)(1)(iii) provides a 120-day period, or a longer period not to exceed 180 days after entry, if granted by the Administrator, NHTSA, for the importer or consignee to submit a conformity statement to the Administrator, NHTSA.

TO WHOM SHOULD THE IMPORTER SUBMIT THE CONFORMITY STATEMENT?

Comments were received concerning the requirement in proposed section 12.80(c) that the conformity statement be delivered to NHTSA rather than Customs. The commenters were concerned that this could delay the administrative process, increase documentation requirements, and unnecessarily disrupt the marketing of imported vehicles.

Section 12.80(c) now requires delivery of a copy of the conformity statement to both Customs and NHTSA. Requiring the importer or consignee to submit a copy of the conformity statement to Customs as well as NHTSA serves no useful purpose because the statement is reviewed by NHTSA. For the same reason, requiring the importer or consignee to submit the conformity statement to Customs, for transmittal to NHTSA, would merely delay processing. For clarity, however, the requirement that the importer or consignee submit the conformity statement to NHTSA has been placed in section 12.80(b)(1)(iii).

SHOULD CUSTOMS ISSUE A NOTICE OF REDELIVERY IF THE IMPORTER DOES NOT TIMELY SUBMIT A CONFORMITY STATEMENT?

One commenter favored proposed section 12.80(c)(3) which provides that upon the request of NHTSA, the district director shall issue a notice of redelivery for the vehicle or equipment item if the conformity statement is not timely delivered or is determined to be inaccurate or false in a material respect. The commenter correctly noted that this procedure would give the importer or consignee a final notice of his liability under the bond.

Another commenter opposed this change because he believed it would add to Customs' work burden and result in more labor and expense for Customs.

Customs and NHTSA have determined that this procedure will aid the effective administration and enforcement of the act. However, rather than requiring the district director to issue the notice of redelivery upon the request of NHTSA, section 12.80(e)(2) has been revised so that the district director will issue the notice if he does not receive a bond release letter from NHTSA within 180 days after entry of the vehicle or equipment item.

SHOULD REFERENCE BE MADE TO THE PENALTY PROVISION OF 19 U.S.C. 1592?

Several commenters opposed proposed section 12.80(d) which provides that a vehicle or equipment item entered by means of a fraudulent or false entry declaration that is made without reasonable cause to believe the truth of the declaration is subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

Three commenters suggested that specific reference to 19 U.S.C. 1592 is unnecessary because it applies to any entry made by means of a fraudulent or false claim. Furthermore, any person who knowingly makes a false declaration is subject to a $10,000 fine, imprisonment, or both under 18 U.S.C. 1001. A warning to this effect is printed on the NHTSA declaration form.

One commenter stated that (1) if the conformity statement is not delivered, is inaccurate, or is false in a material respect, redelivery or exportation of the nonconforming vehicle or equipment item may be required under proposed section 12.80(c)(3); (2) if the importer or consignee fails to redeliver or export the vehicle or equipment item, liquidated damages are assessed under the bond; and (3) forfeiture of a vehicle or equipment item under 19 U.S.C. 1592 therefore should not not be permitted.

Customs and NHTSA have determined that reference to 19 U.S.C. 1592 is proper because it alerts a person less experienced than a commercial importer that he may be subject to liability under the statute if he submits a declaration without reasonable cause to believe it is true. Furthermore, liquidated damages under a bond for failure to redeliver or export a nonconforming vehicle or equipment item cannot be assessed in all instances because a bond is not required for every vehicle and equipment item entered under this section.

Because of amendments made to 19 U.S.C. 1592 by Public Law 95–410, the "Customs Procedural Reform and Simplification Act of 1978," it was necessary to revise proposed section 12.80(d), which has been renumbered as section 12.80(g). Revised section 12.80(g) provides that any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction of a vehicle or equipment item by means of a fraudulent or false declaration may incur liabilities under 19 U.S.C. 1592. Proposed section 12.80(d) provided that a vehicle or equipment item introduced into the United States by means of a fraudulent or false declaration is subject to forfeiture under 19 U.S.C. 1592.

DISCUSSION OF OTHER CHANGES

VEHICLES ENTERING VIA LAND BORDERS

Under proposed section 12.80(b)(1), a written declaration would have been required for each vehicle or equipment item imported into the United States, except as provided for in paragraphs (b)(1)(iii) and (b)(1)(v). The first exception gave Customs the option of accepting an oral declaration for vehicles of Canadian or Mexican registry entering at the Canadian or Mexican border which were manufactured on a date when no applicable safety standards were in force. The second exception provided that persons regularly entering the United

States by a motor vehicle at the Canadian or Mexican border may apply to Customs for an appropriate means of identification to be affixed to the vehicle and used in place of the declaration.

However, because of the growing number of motor vehicles entering the United States, Customs has determined that enforcement of section 12.80(b)(1), as proposed, would be impracticable. In fiscal year 1976, more than 75 million passenger vehicles entered the United States. The vast majority of these vehicles was manufactured after January 1, 1968, and therefore would not be entitled to entry under the oral declaration provisions. Although some of these vehicles might be excepted from the declaration requirements under the nonresident identification tag exception, there would be no exception for returning U.S. residents whose cars were manufactured after January 1, 1968, nonresidents who are occasional border crossers, or nonresidents who, though frequent border crossers, have not applied for indentification tags.

Customs and NHTSA have carefully reviewed this problem and have decided to delete the exceptions in proposed sections 12.80(b)(1)(iii) and 12.80(b)(1)(v). Section 12.80(f) provides that the requirement that a declaration be filed under paragraphs (b)(1)(i), (b)(1)(ii), or (b)(1)(v) may be waived by the district director for a U.S.- Canadian-, or Mexican-registered vehicle arriving via land borders. This change will permit Customs to carry out its enforcement responsibilities with respect to the importation of vehicles and equipment items subject to the Federal motor vehicle safety standards without creating an unreasonable burden on the traveling public.

NONRESIDENTS OF THE UNITED STATES

Proposed section 12.80(b)(1)(v), would have required a nonresident of the United States importing a vehicle or equipment item primarily for personal use for a period of not more than 1 year from the date of entry to indicate his passport number and country of issue on the declaration. That section now requires the nonresident to state his passport number and country of issue only if he has a passport.

PROCESSING THE DECLARATION

A new section 12.80(d) has been added which provides that the district director will forward to NHTSA the original of each declaration submitted to him under section 12.80(b)(1) as soon as practicable.

PROCESSING THE CONFORMITY STATEMENT

Under proposed sections 12.80(c)(2) and 12.80(c)(3), NHTSA would have advised the district director when the bond required for entry of a vehicle or equipment item under proposed section 12.80(b)

(1)(iv) could be released. If the importer or consignee's conformity statement were not delivered to NHTSA within the specified time, or if the statement were inaccurate or false in a material respect, upon the request of NHTSA, the district director would have issued a notice of redelivery for the vehicle or equipment item.

This procedure has been changed. Under section 12.80(e)(1), if NHTSA approves the conformity statement, it will forward a notice of acceptance (bond release letter) to the district director. If the bond release letter is not received by the district director within 180 days after entry, section 12.80(e)(2) provides that he shall issue a notice of redelivery for the vehicle or equipment item.

These changes make the procedure for processing a conformity statement more logical and predictable and easier to administer.

FOREIGN AND INTERNATIONAL ORGANIZATION OFFICIALS

As proposed, section 12.80(b)(1)(vi) requires an importer or consignee of a vehicle or equipment item imported for purposes other than resale, who is included within one of the following classes of persons, to attach a copy of his official orders to the declaration—

(1) A member of the armed forces of a foreign country on assignment in the United States;

(2) A member of the secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or

(3) A member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State. A person in the third class of importers or consignees may state on the declaration the name of the Embassy to which he is accredited instead of attaching a copy of his official orders to the declaration.

These new requirements provide a greater degree of control over the importation of nonconforming vehicles and equipment items by these individuals.

VEHICLES OR EQUIPMENT ITEMS IMPORTED FOR SHOW, COMPETITION, REPAIR, OR ALTERATION

The requirement under proposed section 12.80(b)(1)(vii) that the declaration for a vehicle or equipment item imported for show, competition, repair, or alteration contain a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition is now in section 12.80(c)(2).

EDITORIAL CHANGES

Proposed section 12.80(b)(1) has been revised so that paragraphs (b)(1)(i) through (b)(1)(ix) consist only of what the importer or consignee actually declares or affirms.

For a more logical sequence, proposed section 12.80(b)(1)(i) has been renumbered section 12.80(b)(1)(ii), proposed section 12.80(b)(1)(ii) has been renumbered section 12.80(b)(1)(iv), proposed section 12.80(b)(1)(iii) has been renumbered section 12.80(b)(1)(i), and proposed section 12.80(b)(1)(iv) has been renumbered section 12.80(b)(1)(iii).

Proposed section 12.80(b)(2) has been revised and renumbered section 12.80(c)(1). It lists the contents required on each declaration. Section 12.80(b)(2) now contains the provision in proposed section 12.80(b)(1)(vii) for licensing a vehicle imported solely for the purpose of test or experiment for use on the public roads.

Sections 12.80 (c)(2) and (c)(3) contain certain additional requirements for a declaration filed for a vehicle imported for the purpose of show, competition, repair, or alteration, and test or experiment, respectively.

Numerous other editorial changes have been made to make the regulation more understandable.

DRAFTING INFORMATION

The principal author of this document was Paul G. Hegland, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the National Highway Traffic Safety Administration participated in developing the document both on matters of substance and style.

AMENDMENT TO THE REGULATIONS

PART 12.—SPECIAL CLASSES OF MERCHANDISE

Section 12.80 of the Customs Regulations (19 CFR 12.80) is amended to read as follows:

12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.*—Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the act"), and set forth in 49 CFR part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment

("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

(b) *Requirements for entry and release.*

(1) Unless the requirement for filing is waived by the district director as provided for in paragraph (f) of this section, each vehicle or equipment item offered for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item, or to the outside of the container in which the equipment item is delivered, in accordance with regulations issued by the Secretary of Transportation (49 CFR pts. 555, 567, 568, and 571) under section 114 of the act (15 U.S.C. 1403).

(iii) The vehicle or equipment item was not manufactured in conformity with all applicable safety standards, but it has been or will be brought into conformity. Within 120 days after entry, or within a period not to exceed 180 days after entry, if additional time is granted by the Administrator, National Highway Traffic Safety Administration ("Administrator, NHTSA"), the importer or consignee will submit a true and complete statement to the Administrator, NHTSA, identifying the manufacturer, contractor, or other person who has brought the vehicle or equipment item into conformity, describing the exact nature and extent of the work performed, and certifying that the vehicle or equipment item has been brought into conformity, and that the vehicle or equipment item will not be sold or offered for sale until the Administrator, NHTSA, issues an approval letter to the district director stating that the conditions of the bond required by paragraph (e)(1) of this section have been satisfied.

(iv) The vehicle or equipment item is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(v) The importer or consignee is a nonresident of the United States, is importing the vehicle or equipment item primarily for personal use for a period not exceeding 1 year from the date of entry, will not sell it in the United States during that period, and has stated his passport number and country of issue, if he has a passport, on the declaration.

(vi) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States; a member of the secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or a member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State; is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the Embassy to which he is accredited is stated on the declaration).

(vii) The vehicle or equipment item is imported solely for the purpose of show, test, experiment, competition (a vehicle the configuration of which at the time of entry is such that it cannot be licensed for use on the public roads is considered to be imported for the purpose of competition), repair, or alteration, and the statement required by 19 CFR 12.80 (c)(2) or (c)(3) is attached to the declaration.

(viii) The vehicle was not manufactured primarily for use on the public roads and is not a "motor vehicle" as defined in section 102 of the act (15 U.S.C. 1391).

(ix) The vehicle is an "incomplete vehicle" as defined in 49 CFR part 568.

(2) A vehicle imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b)(1)(vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is an integral part of the test or experiment. The vehicle may be licensed for use on the public roads for one or more further periods which, when added to the initial 1-year period, shall not exceed a total of 3 years, upon application to and approval by the Administrator, NHTSA.

(c) *Declaration; contents.*

(1) Each declaration filed under paragraph (b) (1) of this section shall include the name and address in the United States of importer or consignee, the date and the entry number (if applicable), the make, model, and engine and body serial numbers, or other identification numbers (if a vehicle), or a description of the item (if an equipment item), and shall be signed by the importer or consignee.

(2) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle or equipment item imported for the purpose of show, competition, repair, or alteration shall have attached a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition.

(3) Each declaration filed under paragraph (b)1)(vii) of this section which relates to a vehicle imported solely for the purpose of test or experiment shall have attached a statement fully de-

scribing the test or experiment, the estimated period of time necessary to use the vehicle on the public roads, and the disposition to be made of the vehicle after completing of the test or experiment.

(4) Any declaration filed under paragraph (b)(1) of this section may, if appropriate, relate to more than one vehicle or equipment item imported on the same entry.

(d) *Declaration; disposition.*—The district director shall forward the original of each declaration submitted to him under paragraph (b)(1) of this section as soon as practicable to the Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Washington, D.C. 20590.

(e) *Release under bond.*

(1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs form 7551, 7553, or 7595 in the amount required by section 113.14 of this chapter. A condition of the bond shall be the production of an approval (bond release) letter from the Administrator, NHTSA, stating that the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards. The bond release letter shall be issued upon approval by the Administrator, NHTSA, of the conformity statement submitted by the importer or consignee as provided for in paragraph (b)(1)(iii) of this section. The bond release letter shall be forwarded by the Administrator, NHTSA, to the district director with a copy to the importer or consignee.

(2) If the bond release letter is not received by the district director within 180 days after entry, the district director shall issue a "Notice of Redelivery," Customs form 4647, requiring the redelivery to Customs custody of the vehicle or equipment item. If the vehicle or equipment item is not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the notice of redelivery, liquidated damages shall be assessed in the full amount of a bond given on Customs form 7551. If the transaction has been charged against a bond given on Customs form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been assessed against a bond given on Customs form 7551.

(f) *Waiver of declaration requirements.*—The requirement that a declaration be filed under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(v) of this section as a condition to the introduction of a vehicle or equipment item into the Customs territory of the United States may be waived by the district director for a United States-, Canadian-, or Mexican-registered vehicle arriving via land borders.

(g) *Vehicle or equipment item introduced by means of a fraudulent or false declaration.*—Any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction, of a vehicle or equipment item into the Customs territory of the United States by means

of a fraudulent entry declaration, or by means of a false entry declaration made without reasonable cause to believe the truth of the declaration, may incur liabilities under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(h) *Vehicle or equipment item denied entry.*—If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the district director shall refuse to release the vehicle or equipment item for entry into the Customs territory of the United States and shall issue a notice of that refusal to the importer or consignee.

(i) *Disposition of vehicle or equipment item denied entry; redelivery.*—A vehicle or equipment item denied entry under paragraph (b) of this section, or redelivered to Customs custody under paragraph (e) of this section, which is not exported under Customs supervision within 90 days from the date of the notice of denial of entry or date of redelivery, shall be disposed of under applicable Customs laws and regulations, except that disposition shall not result in the introduction of the vehicle or equipment item into the Customs territory of the United States in violation of the act.

(R.S. 251, as amended, secs. 592, 623, 624, 46 Stat. 750, as amended, 759, as amended, sec. 108, 80 Stat. 722, as amended (19 U.S.C. 66, 1592, 1623, 1624; 15 U.S.C. 1397))

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: November 6, 1978.

RICHARD J. DAVIS,
Assistant Secretary,
(Enforcement and Operations).

JOAN CLAYBROOK,
Administrator, National Highway Traffic Safety Administration.

[Published in the Federal Register, Dec. 4, 1978 (43 F.R. 56655)]

(T.D. 78–479)

Customs Procedural Reform and Simplification Act of 5978

Public Law 95–410, amending the Tariff Act of 1930 and other statutes administered by the Customs Service; text published

Public Law 95–410, approved October 3, 1978, an act "To provide Customs procedural reform, and for other purposes," is set forth below.

The statute makes significant changes in the laws administered by the Customs Service which relate, among other things, to entry procedures for imported merchandise, penalties for violations of laws

administered by Customs, personal exemptions for returning travelers, recordkeeping requirements of importers, reporting requirements for customhouse brokers, disposition of forfeited alcoholic beverages, and procedures relating to the importation of trademarked articles.

Conforming amendments to the Customs Regulations made necessary by the new law were published as T.D. 78-394 (43 F.R. 49784, Oct. 25, 1978). Proposed amendments to the regulations relating to penalties for violations of laws administered by Customs requiring public comment were published in the Federal Register on November 16, 1978 (43 F.R. 53453). Proposed amendments to the regulations relating to recordkeeping, reporting requirements for customhouse brokers, trademarks, and disposition of forfeited alcoholic beverages requiring public comment were published in the Federal Register on November 16, 1978 (43 F.R. 53461). Proposed amendments to the regulations relating to entry procedures requiring public comment will be the subject of a notice of proposed rulemaking to be published in the Federal Register in the near future. Following evaluation of comments received in response to these notices, appropriate amendments to the Customs Regulations will be published in final form.

Dated: November 29, 1978.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

Customs Procedural Reform and Simplification Act of 1978

[Public Law 95-410, 95th Congress]

AN ACT

To provide customs procedural reform, and for other purposes.

Oct. 3, 1978
[H.R. 8149]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Procedural Reform and Simplification Act of 1978".

Customs Procedural Reform and Simplification Act of 1978. 19 USC 1654 note.

TITLE I—CUSTOMS PROCEDURAL REFORM

SEC. 101. Section 315(a) of the Tariff Act of 1930 (19 U.S.C. 1315(a)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ";and"; and

(3) by adding at the end thereof the following new paragraph:

19 USC 1505.

"(3) any article for which duties may, under section 505 of this Act, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.".

SEC. 102 (a) Section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENT AND TIME.—(1) Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, the consignee of imported merchandise, either in person or by an agent authorized by the consignee in writing—

19 USC 1490, 1498, 1552, 1553, 1336.

Documentation.

"(A) shall make entry therefor by filing with the appropriate customs officer such documentation as is necessary to enable such officer to determine whether the merchandise may be released from customs custody; and

"(V) shall file (at the time required under paragraph (2)(B) of this subsection) with the appropriate customs officer such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation required under paragraph (1) of this subsection with respect to any imported merchandise shall be filed at such place within the customs-collection district where the merchandise will be released from customs custody as the Secretary shall shall by regulation prescribe.

"(B) The documentation required under paragraph (1)(B) of this subsection with respect to any imported merchandise shall be filed with the appropriate customs officer when entry of the merchandise is made or at such time within the ten-day period (exclusive of Saturdays, Sundays, and holidays) immediately following the date of entry as the Secretary shall by regulation prescribe.

Regulations.

"(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish precodures which insure the accuracy and timeliness of import statistics,

particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such statistical data discovered after the release of merchandise shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the facilitation of the commerce of the United States, and the equal treatment of all consignees of imported merchandise.";

(2) by striking out "subdivision" in subsection (c)(3) and inserting in lieu thereof "subsection"; and

(3) by striking out the second sentence in subsection (j).

(b) The amendments made by this section shall take effect 60 days after the date of enactment of this Act. Effective date. 19 USC 1484 note.

SEC. 103. Section 505(a) of the Traiff Act of 1930 (19 U.S.C. 1505(a)) is amended to read as follows:

"(a) DEPOSIT OF ESTIMATED DUTIES.—Unless merchandise is entered for warehouse or transportation, or under bond, the consignee shall deposit with the appropriate customs officer at the time of making entry, or at such later time as the Secretary may prescribe by regulation (but not to exceed thirty days after the date of entry), the amount of duties estimated by such customs officer to be payable thereon." Regulations.

SEC. 104. The Tariff Act of 1930 is amended by inserting after section 507 the following new section:

"SEC. 508. RECORDKEEPING. 19 USC 1508.

"(a) REQUIREMENTS.—Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations, and other documents) which—

"(1) pertain to any such importation, or to the information contained in the documents required by this Act in connection with the entry of merchandise; and

"(2) are normally kept in the ordinary course of business.

"(b) PERIOD OF TIME.—The records required by subsection (a) of this section shall be kept for such periods

of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.

Infra:

"(c) LIMITATION.—For the purposes of this section and section 509, a person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported unless—

"(1) the terms and conditions of the importation are controlled by the person placing the order; or

"(2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise."

SEC. 105. Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended to read as follows:

"SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.

"(a) AUTHORITY.—In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty and taxes due or duties and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

Notice:

"(1) examine, or cause to be examined, upon reasonable notice, any record, statement, declaration or other document, described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry'

Notice:

"(2) summon, upon reasonable notice—

"(A) the person who imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

"(B) any officer, employee, or agent of such person,

"(C) any person having possession, custody, or care of records relating to such importation, or

"(D) any other person he may deem proper,

to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, required to be kept under section

Ante, p. 889.

508 of this Act, and to give such testimony, under oath, as may be relevant to such investigation or inquiry' and

"(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

"(b) SERVICE OF SUMMONS.—A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons in prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable specificity.

"(c) SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—(1) For purposes of this subsection— Definitions.

"(A) The term 'records' includes statements, declarations, or documents required to be kept under section 508 of this Act.

"(B) The term 'summons' means any summons issued under subsection (a) of this section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

"(C) The term 'third-party recordkeeper' means—

"(i) any customhouse broker;

"(ii) any attorney; and

"(iii) any accountant.

"(2) If— Notice.

"(A) any summons is served on any person who is a third-party recordkeeper; and

"(B) the summons requires the production of, or the giving of testimony relating to, any portion of records made or kept of the import transactions of any person (other than the person summoned) who

is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

"(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person.

"(4) Paragraph (2) of this subsection shall not apply to any summons—

"(A) served on the person with respect to whose liability for duties or taxes the summons is issued, or any officer or employee of such person; or

"(B) to determine whether or not records of the import transactions of an identified person have been made or kept.

"(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—

"(A) to intervene in any proceeding with respect to the enforcement of such summons under section 510 of this Act; and

Infra

"(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—

"(i) notice in writing is given to the person summoned not to comply with the summons; and

"(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

"(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (2) of this subsectiou may be made—

"(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

"(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

"(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.".

SEC. 106. Section 510 of the Tariff Act of 1930 (19 U.S.C. 1510) is amended to read as follows:

"SEC. 510. JUDICIAL ENFORCEMENT.

"(a) ORDER OF COURT.—If any person summoned under section 509 of this Act does not comply with the summons, the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to comply with the summons. Failure to obey such order of the court may be punished by such court as a contempt thereof. *Ante*, p. 889.

"(b) SANCTIONS.—(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 509 of this Act and for refusing to obey the order of the court, remains in contempt, the Secretary may— *Ante*, p. 889.

"(A) prohibit that person from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and

"(B) instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by that person or for his account.

"(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officers shall cause all

merchandise held in customs custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

"(3) The sanctions which may be imposed under paragraphs (1) and (2) are in addition to any punishment which may be imposed by the court for contempt.".

Repeal.

SEC. 107. Section 511 of the Tariff Act of 1930 (19 U.S.C. 1511) is repealed.

SEC. 108. (a) Section 557 of the Tariff Act of 5930 (19 U.S.C. 1557) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BEFORE PAYMENT.—Merchandise may be withdrawn for consumption without the payment of the duty thereon if the consignee or transferee is permitted to pay duty at a later time pursuant to regulations prescribed by the Secretary under section 505 of this Act.".

19 USC 1505.

(b)(1) Sections 557 and 559 of the Tariff Act of 1930 (19 U.S.C. 1557 and 1559) are amended by striking out "three years" each place it appears and inserting in lieu thereof "5 years" in each such place.

19 USC 1557 note.

(2) For purposes of applying the amendments made by paragraph (1) to merchandise remaining in a bonded warehouse on the date of enactment of this Act, any period of time the merchandise was in the bonded warehouse before that date shall be disregarded.

SEC. 109. Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out the first word of each paragraph and inserting in lieu thereof—

(A) "(a) GENERAL RULE.—(1) Any" in the first paragraph,

(B) "(2) If" in the second paragraph, and

(C) "(3) If" in the last paragraph;

(2) by inserting "lesser of $10,000 or the domestic" immediately after "penalty equal to the" in the first sentence of the first paragraph;

(3) by inserting "or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest" immediately after "or the owner of such vessel of vehicle" each place it appears in the first sentence of the first paragraph;

(4) by adding at the end of the first paragraph the following new sentence: "For purposes of this subsection, the term 'clerical error' means a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest.";

"Clerical error."

(5) by inserting "or any person directly or indirectly responsible for heroin, morphine, cocaine, isonipecaine, or opiate being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the first sentence of the second paragraph;

(6) by inserting "or any person directly or indirectly responsible for smoking opium, opium prepared for smoking, or marihuana being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the second sentence of the second paragraph;

(7) by inserting "or any person directly or indirectly responsible for crude opium being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the third sentence of the second paragraph; and

(8) by adding at the end thereof the following new subsection:

Notice.

"(b) PROCEDURES.—(1) If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a)(1) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for a monetary penalty. Such notice shall—

"(A) describe the merchandise;

"(B) set forth the details of the error in the manifest;

"(C) specify all laws and regulations allegedly violated;

"(D) disclose all the material facts which establish the alleged violation;

"(E) state the estimated loss of lawful duties, if any, and, taking into account all of the circumstances, the amount of the proposed monetary penalty; and

"(F) inform such person that he will have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

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No notice is required under this subsection for any violation of subsection (a)(1) for which the proposed penalty is $500 or less.

"(2) After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the appropriate customs officer shall determine whether any violation of subsection (a)(1), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under subparagraphs (A) through (E) of paragraph (1).".

SEC. 110. (a) Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended to read as follows:

"SEC. 592. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE.

"(a) PROHIBITION.—

"(1) GENERAL RULE.—Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, no person, by fraud, gross negligence, or negligence—

"(A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—

"(i) any document, written or oral statement, or act which is material and false, or

"(ii) any omission which is material, or

"(B) may aid or abet any other person to violate subparagraph (A).

"(2) EXCEPTION.—Clerical errors or mistakes of fact are not violations of paragraph (1) unless they they are part of a pattern of negligent conduct.

"(b) PROCEDURES.—

"(1) PRE-PENALTY NOTICE.—

"(A) IN GENERAL.—If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue

a claim for a monetary penalty. Such notice shall—

"(i) describe the merchandise;

"(ii) set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or procuring of the entry or introduction;

"(iii) specify all laws and regulations allegedly violated;

"(iv) disclose all the material facts which establish the alleged violation;

"(v) state whether the alleged violation occurred as a result of fraud, gross negligence, or negligence;

"(vi) state the estimated loss of lawful duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

"(vii) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

"(B) EXCEPTIONS.—The preceding subparagraph shall not apply if—

"(i) the importation with respect to which the violation of subsection (a) occurs is noncommercial in nature, or

"(ii) the amount of the penalty in the penalty claim issued under paragraph (2) is $1,000 or less.

"(2) PENALTY CLAIM.—After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under clauses (i) through (vi) of paragraph (1)(A). Such person shall have a reasonable opportunity under section 618 of this Act to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under such section 618, the appropriate customs officer shall provide to the person concerned a written statement which sets forth the

19 USC 1618.

final determination and the findings of fact and conclusions of law on which such determination is based.

"(c) MAXIMUM PENALTIES.—

"(1) FRAUD.—A fraudulent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise.

"(2) GROSS NEGLIGENCE.—A grossly negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed—

"(A) the lesser of—

"(i) the domestic value of the merchandise, or

"(ii) four times the lawful duties of which the United States is or may be deprived, or

"(B) if the violation did not affect the assessment of duties, 40 percent of the dutiable value of the merchandise.

"(3) NEGLIGENCE.—A negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed—

"(A) the lesser of—

"(i) the domestic value of the merchandise, or

"(ii) two times the lawful duties of which the United States is or may be deprived, or

"(B) if the violation did not affect the assessment of duties, 20 percent of the dutiable value of the merchandise.

"(4) PRIOR DISCLOSURE.—If the person concerned disclosus the circumstances of a violation of subsection (a) before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, merchandise shall not be seized and any monetary penalty to be assessed under subsection (c) shall not exceed—

"(A) if the violation resulted from fraud—

"(i) an amount equal to 100 percent of the lawful duties of which the United States is or may be deprived, so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his calculation of such unpaid amount, or

"(ii) if such violation did not affect the assessment of duties, 10 percent of the dutiable value; or

"(B) if such violation resulted from negligence or gross negligence, the interest (computed from the date of liquidation at the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1954) on the amount of lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within 30 days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his calculation of such unpaid amount. 26 USC 6621.

The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

"(5) SEIZURE.—If the Secretary has reasonable cause to believe that a person has violated the provisions of subsection (a) and that such person is insolvent or beyond the jurisdiction of the United States or that seizure is otherwise essential to protect the revenue of the United States or to prevent the introduction of prohibited or restricted merchandise into the customs territory of the United States, then such merchandise may be seized and, upon assessment of a monetary penalty, forfeited unless the monetary penalty is paid within the time specified by law. Within a reasonable time after any such seizure is made, the Secretary shall issue to the person concerned a written statement containing the reasons for the seizure. After seizure of merchandise under this subsection, the Secretary may, in the case of restricted merchandise, and shall, in the case of any other merchandise (other than prohibited merchandise), return such merchandise upon the deposit of security not to exceed the maximum monetary penalty which may be assessed under subsection (c).

"(d) DEPRIVATION OF LAWFUL DUTIES.—Notwithstanding section 514 of this Act, if the United States has been deprived of lawful duties as a result of a violation of subsection (a), the appropriate customs officer shall require that such lawful duties be restored, whether or not a monetary penalty is assessed. 19 USC 1514.

"(e) DISTRICT COURT PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding in a United States district court commenced by the United

19 USC 1604.

States pursuant to section 604 of this Act for the recovery of any monetary penalty claimed under this section—

"(1) all issues, including the amount of the penalty, shall be tried de novo;

"(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence;

"(3) if the monetary penalty is based on gross negligence, the United States shall have the burden of proof to establish all the elements of the alleged violation; and

"(4) if the monetry penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of proof that the act or omission did not occur as a result of negligence.".

(b) Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by inserting "promptly" immediately after "to report".

(c) Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended—

(1) by striking out "Any" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, any"; and

(2) by adding at the end thereof the following new subsection:

Ante, p. 893.

"(b) If merchandise is forfeited under section 592 of this Act, any proceeds from the sale thereof in excess of the monetary penalty finally assessed thereunder and the expenses and costs described in subsection (a)(1) and (2) of this section incurred in such sale shall be returned to the person against whom the penalty was assessed."

(d) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended by inserting "(other than those arising under section 592 of this Act)" immediately after "In all suits or actions".

(e) Section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) is amended by inserting the following after "*Provided*, That": "in the case of an alleged violation of section 592 of this Act arising out of gross negligence or negligence, such suit or action shall not be instituted more than five years after the date the alleged violation was committed: *Provided further*, That".

Ante, p. 893.

(f)(1)(A) Except as provided in subparagraphs (B) and (C), subsections (a), (b), and (c) (other than new subsection (c) of section 592 of the Tariff Act of 1930 as added by subsection (a)) shall be effective with respect to proceedings commenced after the 89th day after the date of enactment of this Act. 19 USC 1592 note.

(B) Except as provided in subparagraph (C), section 592 of the Tariff Act of 1930 (as such section existed on the day before the date of enactment of this Act) shall apply to any alleged intentional violation thereof involving television receivers that are the product of Japan and that were or are the subject of antidumping proceedings if the alleged intentional violation—

(i) occurred before the date of enactment of this Act, and

(ii) was the subject of an investigation by the Customs Service which was begun before the date of enactment of this Act.

(C) Except as provided in the next sentence, subsection (e) of section 592 of the Tariff Act of 1930 (as added by subsection (a)) shall be effective on the date of enactment of this Act. Notwithstanding any provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of the Tariff Act of 1930 for the recovery of any monetary penalty claimed under section 592 of such Act for an alleged intentional violation described in subparagraph (B)— 19 USC 1604.

(i) all issues, including the amount of the penalty, shall be tried de novo; and

(ii) the United States shall have the burden of proof to establish such violation by a preponderance of the evidence.

(2)(A) The amendment made by subsection (e) shall apply with respect to alleged violations of section 592 of the Tariff Act of 1930 resulting from gross negligence or negligence which are committed on or after the date of the enactment of this Act.

(B) In the case of any alleged violation of such section 592 resulting from gross negligence or negligence which was committed before the date of the enactment of this Act and for which no suit or action for recovery was

commenced before such date of enactment, no suit or action for recovery with respect to such alleged violation shall be instituted after—

(i) the closing date of the 5-year period beginning on the date on which the alleged violation was committed, or

(ii) the closing date of the 2-year period beginning on such date of enactment,

whichever date later occurs, except that no such suit or action may be instituted after the date on which such suit or action would have been barred under section 621 of the Tariff Act of 1930 (as in effect on the day before such date of enactment).

19 USC 1621.

SEC. 111. (a) Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500" each place that it appears therein and inserting in lieu thereof "$10,000".

(b) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500" in such section and inserting in lieu thereof "$10,000".

(c) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by striking out "$2,500" each place it appears therein and inserting in lieu thereof "$10,000".

SEC. 112. The Tariff Act of 1930 is amended by inserting immediately after section 624 the following new section:

19 USC 1625.

"SEC. 625. PUBLICATION OF DECISIONS.

"Within 120 days after issuing any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision) under this Act with respect to any customs transaction, the Secretary shall have such decision published in the Customs Bulletin or shall otherwise make such decision available for public inspection.".

SEC. 113. Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended by adding at the end thereof the following new subsection:

"(e) TRIENNIAL REPORTS BY CUSTOMHOUSE BROKERS.—On February 1, 1979, and on February 1 of

each third year thereafter, each person who is licensed as a customhouse broker under this section shall file with the Secretary a report as to—

"(1) whether such person is actively engaged in business as a customhouse broker; and

"(2) the name under, and the address at, which such business is being transacted.".

TITLE II—CUSTOMS SIMPLIFICATION

SEC. 201. Section 11 of the Act of March 1, 1879 (19 U.S.C. 467) is amended to read as follows:

"SEC. 11. The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America." Regulations.

SEC. 202. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended as follows:

(1) Item 812.20 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms", by striking out "1 quart" and inserting in lieu thereof "1 liter", and by striking out "300 cigarettes" and inserting in lieu thereof "200 cigarettes". 19 USC 1202 note.

(2) Item 812.25 is amended by striking out "(including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars)" and inserting in lieu thereof "(not including alcoholic beverages and cigarettes but including not more than 100 cigars)".

(3) Item 812.40 is amended by inserting "(including not more than 4 liters of alcoholic bev-

erages)" after "Not exceeding $200 in value of articles".

19 USC 1202 note.

(4) The prefatory note to item 813.10 is amended by inserting the following before the colon at the end of such note: "(including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States)".

(5) Subpart A of part 2 is amended by striking out items 813.30 and 813.31 and by inserting in lieu thereof the following new items:

"	Other articles, including not more than 100 cigars, acquired abroad as an incident of the journey from which the person is returning if such person arrives from the Virgin Islands of the United States or from a contiguous country which maintains a free zone or free port, or arrives from any other country after having remained beyond the United States for a period of not less than 48 hours, for his personal or household use, but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury and if such person has not claimed an exemption under item 813.30 or 813.31 within 30 days preceding his arrival, and does not claim an exemption under the other item on his arrival:		
813.30	Articles, accompanying a person, not over $300 in aggregate fair retail value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 quart of alcoholic beverages	Free	Free
813.31	Articles, whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 wine gallon of alcoholic beverages, not more than 1 quart of which shall have been acquired elsewhere than in American Samoa, Guam, or the Virgin Islands of the United States, if such person arrives directly or indirectly from such insular possessions, not more than $300 of which shall have been acquired elsewhere than in such insular possessions (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in such insular possessions)	Free	Free ".

(6) The item description appearing immediately before item 813.30 (as amended by paragraph (5)) is amended by inserting "200 cigarettes and" before "100 cigars".

(7) Item 813.30 (as amended by paragraph (5)) is amended by striking out "1 quart" and inserting in lieu thereof "1 liter".

(8) Item 813.31 (as amended by paragraph (5)) is amended by striking out "1 wine gallon" and inserting in lieu thereof "4 liters", and by striking out "1 quart" and inserting in lieu thereof "1 liter".

(9) Item 814.00 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms" and by striking out "1 quart" and inserting in lieu thereof "1 liter".

(10) Item 860.10 is amended by striking out "8 ounces" and inserting in lieu thereof "300 milliliters", by striking out "4 ounces" and inserting in lieu thereof "150 milliliters", and by striking out "2 ounces" and inserting in lieu thereof "100 milliliters".

(11) Item 860.20 is amended by striking out "⅛ ounce" each place that it appears and inserting in lieu thereof "3.5 grams".

(b)(1) The amendments made by this section with respect to metric conversion apply to merchandise entered on or after January 1, 1980.

19 USC 1202 note.

(2) The amendments made by this section (other than those referred to in paragraph (1)) shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act. For purposes of this subsection, the amendment made by paragraph (3) of subsection (a) shall not be considered an amendment with respect to metric conversion.

SEC. 203. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is further amended by redesignating part 6 as part 7, b strking out "Part 6 headnote:" in part 7 (as so redesignated) and inserting in lieu thereof "Part 7 headnote:"; and by inserting after part 5 of the following new part:

19 USC 1202 note.

"		PART 6.—NONCOMMERCIAL IMPORTATIONS OF LIMITED VALUE		
		Part 6 headnote: For the purposes of this part the rates of duty for articles provided in this part shall be assessed in lieu of any other rates of duty, except free rates of duty on such articles, unless the Secretary of the Treasury or his delegate determines, in accordance with regulations, that the application of the rate of duty provided in this part to any article in lieu of the rate of duty otherwise applicable thereto adversely affects the economic interest of the United States.		
		Articles for personal or household use, or as bona fide gifts, not imported for the account of another person, valued in the aggregate at not over $600 fair retail value in the country of acquisition, if the person claiming the benefit of item 869.00 or 869.10, or both, has not received the benefits thereof within the 30 days immediately preceding his arrival:		
	869.00	Accompanying a person, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, or the Virgin Islands of the United States)	10% of the fair retail value	10% of the fair retail value
	869.10	Imported by or for the account of a person (whether or not accompanying him) arriving directly or indirectly ffom American Samoa, Guam, or the Virgin Islands of the United States, acquired in such insular possessions as an incident of such person's physical presence	5% of the fair retail value	5% of the fair retail value

",

19 USC 1202 note.

(b) The amendment made by this section shall apply to persons and articles arriving in the United States on or after the 30th day after the date of the enactment of this Act.

Publication in Federal Register.

SEC. 204. Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by striking out "weekly Treasury Decisions" and inserting in lieu thereof "Federal Register".

SEC. 205. (a) Section 321(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(1)) is amended by striking out "$3" and inserting in lieu thereof "$10", and by striking out "or" after "duties" wherever it appears and inserting in lieu thereof "and".

(b)(1) Subparagraph (A) of section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)) is amended by striking out "$10" and inserting in lieu thereof "$25", and by striking out "$20" and inserting in lieu thereof "$40".

(2) Subparagraph (B) of such section 321(a)(2) is amended by striking out "$10" and inserting in lieu thereof "$25".

(3) Subparagraph (C) of such section 321(a)(2) is amended by striking out "$1" and inserting in lieu thereof "$5".

SEC. 206. Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended—

(1) by striking out "; and if the owner or master" in subsection (a) and all that follows thereafter down through the period at the end of the first sentence and inserting in lieu thereof the following: ". If the owner or master willfully or knowingly neglects or fails to report, make entry, and pay duties as herein required, or if he makes any false statement in respect of such purchases or repairs without reasonable cause to believe the truth of such statements, or aids or procures the making of any false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture; and

(2) by redesignating subsections (b) and (c) as (d) and (e), respectively, and by inserting after subsection (a) the following new subsections: 19 USC 1466a

"(b) NOTICE.—If the appropriate customs officer has reasonable cause to believe a violation has occurred and determines that further procedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a penalty claim. Such notice shall—

"(1) describe the circumstances of the alleged violation;

"(2) specify all laws and regulations allegedly violated;

"(3) disclose all the material facts which establish the alleged violation;

"(4) state the estimated loss of lawful duties, if any, and taking into account all of the circumstances, the amount of the proposed penalty; and

"(5) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

"(c) VIOLATION.—After considering representations, if any, made by the person concerned pursuant to the notice issued under subsection (b), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly notify, in writing, the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under paragraphs (1) through (4) of subsection (b).".

SEC. 207. Section 483(1) of the Tariff Act of 1930 (19 U.S.C. 1483(1)) is amended—

(1) by inserting "or the holder of an air waybill" immediately after "bill of lading";

(2) by adding "in the case of a bill of lading" immediately before "if consigned to order, by the consignor"; and

(3) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; except that this section shall not limit in any way the rights of the consignor, as prescribed by article 12 of the Warsaw Convention (49 Stat. 3017)."

SEC. 208. Section 491 of the Tariff Act of 1930 (19 U.S.C. 1491) is amended—

(1) by amending the section heading to read as follows:

"SEC. 491. UNCLAIMED MERCHANDISE; DISPOSITION OF FORFEITED DISTILLED SPIRITS, WINES AND MALT LIQUOR";

(2) by inserting "(a)" at the beginning of such section; and

(3) by adding at the end thereof the following new subsection:

"(b) All distilled spirits, wines, and malt liquor forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by—

"(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and malt liquor for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

"(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and malt liquor for medical purposes;

"(3) sale by appropriate customs officer at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and malt liquor under paragraph (1) or (2); or Regulations.

"(4) destruction."

SEC. 209. (a) The Tariff Act of 1930 is amended by adding immediately after section 503 the following new section:

"SEC. 504. LIMITATION ON LIQUIDATION. 19 USC 1504.

"(a) LIQUIDATION.—Except as provided in subsection (b), an entry of merchandise not liquidated within one year from:

"(1) the date of entry of such merchandise;

"(2) the date of the final withdrawal of all such merchandise covered by a warehouse entry; or

"(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under section 505(a) of this Act, duties may be deposited after the filing of an entry or withdrawal from warehouse; *Ante*, p. 889.

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent. Notwithstanding section 500(e) of this Act, notice of liquidation need not be given of an entry deemed liquidated. 19 USC 500.

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in regulations, if—

"(1) information needed for the proper appraisement or classification of the merchandise is not available to the appropriate customs officer;

"(2) liquidation is suspended as required by statute or court order; or

"(3) the importer, consignee, or his agent requests such extension and shows good cause therefor.

Regulations.

"(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that notice of such suspension be provided to the importer or consignee concerned and to any authorized agent and surety of such importer or consignee.

"(d) LIMITATION.—Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer, his consignee, or agent, unless liquidation continues to be suspended as required by statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom."

19 USC 1504 note.

(b) The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

SEC. 210. Section 520(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1520(c)(1)) is amended to read as follows:

"(1) a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the appropriate customs officer within one year after the date of liquidation or exaction; or".

SEC. 211. (a) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended—

(1) by striking out "It" in subsection (a) and inserting in lieu thereof "Except as provided in subsection (d) of this section, it"; and

(2) by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS.—(1) The trademark provisions of this section and section 42 of the Act of July 5, 1946

(60 Stat. 440; 15 U.S.C. 1124), do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

Publication in Federal Register.

"(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by this subsection. In determining such quantities of particular types of trade-marked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use.

"(3) If any article which has been exempted from the restrictions on importation of the trade-mark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

Rules and regulations.

"(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.".

(b) Section 42 of the Act of July 5, 1946 (15 U.S.C. 1124), is amended by striking out "That " and inserting in lieu thereof "Except as provided in subsection (d) of section 526 of the Tariff Act of 1930,".

(c) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended by adding at the end of the following new subsection:

"(e) Any such merchandise bearing a counterfeit mark (within the meaning of section 45 of the Act of July 5, 1946 (commonly referred to as the Lanham Act, 60 Stat. 427; 15 U.S.C. 1127)) imported into the United States in violation of the provisions of section 52 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violations of the

customs laws. Upon seizure of such merchandise, the Secretary shall notify the owner of the trademark, and shall, after forfeiture, obliterate the trademark where feasible and dispose of the goods seized—

"(1) by delivery to such Federal, State, and local government agencies as in the opinion of the Secretary have a need for such merchandise,

"(2) by gift to such eleemosynary institutions as in the opinion of the Secretary have a need for such merchandise,

"(3) more than 1 year after the date of forfeiture, by sale by appropriate customs officers at public auction under such regulations as the Secretary prescribes, except that before making any such sale the Secretary shall determine that no Federal, State, or local government agency or eleemosynary institution has established a need for such merchandise under paragraph (1) or (2), or

"(4) if the merchandise is unsafe or a hazard to health, by destruction.".

SEC. 212. Section 599 of the Tariff Act of 1930 (19 U.S.C. 1599) is amended by inserting "(other than a yacht or other pleasure boat)" after "part, any vessel".

SEC. 213. The first sentence of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), is further amended by deleting the word "thereof" where it first appears and by inserting in lieu thereof "of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported)".

Repeals.

SEC. 214. (a) Sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58 and 46 U.S.C. 329, 330, and 333) are each repealed.

Fees.
19 USC 58a.

(b) The Secretary may charge such fees as may be necessary to cover the costs of providing services similar to or the same as services furnished by customs officers under the sections repealed by subsection (a).

19 USC 1496a.

SEC. 215. Except as otherwise provided by law, no individual returning to the United States from abroad shall be—

(1) entitled to the admission of his or her baggage and effects free of duty without entry; or

(2) entitled to expedited customs examination and clearance of his or her baggage and effects.

Paragraph (2) shall not apply to individuals in special circumstances (including being seriously ill or infirm, having been summoned by news of affliction or disaster, and accompanying the body of a deceased relative). For purposes of this section, the term "baggage and effects" means any article which was in the possession of the individual while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

"Baggage and effects."

SEC. 216. The Comptroller General, in cooperation with the Customs Service of the Department of the Treasury and the Immigration and Naturalization Service of the Department of Justice, shall study clearance procedures for individuals entering or reentering the United States. The study shall include an analysis and comparison of the clearance procedures employed by other countries for individuals entering or reentering such other countries and an analysis of the usefulness of preentry forms completed by travelers for use when entering or reentering the United States. The Comptroller General shall report the results of his study and any recommendations he may have for expediting the clearance process (including recommendations for legislation) to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the House of Representatives not later than September 1, 1979.

Study. 19 USC 1496a note.

Report to congressional committees.

TITLE III—CUSTOMS SERVICE APPROPRIATIONS AUTHORIZATION

SEC. 301. For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

19 USC 2075

TITLE IV—SEPARABILITY OF PROVISIONS

SEC. 401. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Act and the application of such provisions to other persons or circumstances, shall not be affected thereby. 19 USC 1652 note.

Approved October 3, 1978.

LEGISLATIVE HISTORY:
HOUSE REPORTS: No. 95-621 (Comm. on Ways and Means) and No. 95-1517 (Comm. of Conference).
SENATE REPORT No. 95-778 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 17, considered and passed House.
Vol. 124 (1978): June 7, considered and passed Senate, amended.
Aug. 25, Senate agreed to conference report.
Sept. 19, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 40 (1978): Oct. 4, Presidential statement.

(T.D. 78-480)

The following is a decision made by the U.S. Supreme Court in which the issues involved are of sufficient interest and importance to warrant publication in the CUSTOMS BULLETIN.

Dated: November 29, 1978.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

ZENITH RADIO CORPORATION, PETITIONER

v.

UNITED STATES

No. 77-539

Argued April 25, 1978; Decided June 21, 1978

The United States appealed from a judgment of the United States Customs Court, 430 F. Supp. 242, holding that remission of a Japanese commodity tax on electronic products exported from Japan constituted a "bounty or grant" authorizing levy of countervailing duties. The Court of Customs and Patent Appeals reversed, 562 F. 2d 1209. On grant of certiorari, the Supreme Court, MR. Justice Marshall, held

that the Treasury Department's statutory interpretation that nonexcessive remission of an indirect tax by a foreign country is not a "bounty or grant" upon exportation of a product from a foreign country, within the meaning of this country's tariff statute, was a permissible interpretation and would thus be upheld.

Affirmed.

1. Statutes 219(5)

Question before reviewing court was whether, in light of normal aids to statutory construction, Treasury Department's interpretation of statute was "sufficiently reasonable" to be accepted by reviewing court. Tariff Act of 1930, §§ 303, 303(a), 516(d) as amended 19 U.S.C. A. §§ 1303, 1303(a), 1516(d).

2. Customs Duties 21

Treasury Department's statutory interpretation that nonexcessive remission of indirect tax by foreign country is not "bounty or grant" upon exportation of product from foreign country, within meaning of United States tariff statute, was permissible interpretation and was thus upheld. Tariff Act of 1930, § 303 as amended 19 U.S.C.A. § 1303.

See publication Words and Phrases for other judicial constructions and definitions.

3. Customs Duties 21

Countervailing duty provided for by tariff statute was intended to offset unfair competitive advantage that foreign producers would otherwise enjoy from export subsidies paid by their governments. Tariff Act of 1930, §§ 303, 303(a), 516(d) as amended 19 U.S.C.A. §§ 1303, 1303(a), 1516(d); General Agreement on Tariffs and Trade arts. I et seq., VI, subd. 3, 61 Stat. *A* 11.

4. Statutes 219(1)

In light of substantial reliance interests, long-standing administrative construction of statute was not to be disturbed except for cogent reasons. Tariff Act of 1930, §§ 303, 303(a), 516(d) as amended 19 U.S.C.A. §§ 1303, 1303(a), 1516(d); General Agreement on Tariffs and Trade, arts. I et seq., VI, subd. 3, 61 Stat. *A* 11.

*Syllabus**

Petitioner, an American manufacturer of consumer electronic products, filed a petition with the Commissioner of Customs, requesting assessment under § 303 of the Tariff Act of 1930 of countervailing

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

duties on various consumer electronic products exported from Japan to this country. Petitioner contended that the products benefited from bounties or grants paid or conferred by Japan because Japan imposes a commodity tax (an "indirect" tax) on those products when they are sold in that country but "remits" the tax when the products are exported, any tax paid on the shipment of a product being refunded upon the subsequent exportation. Section 303 provides that whenever a foreign country pays a "bounty or grant" upon the exportation of a product from that country, the Secretary of the Treasury must levy a countervailing duty "equal to the net amount of such bounty or grant upon the importation of the product into the United States. After rejection of its request petitioner filed suit in the Customs Court, claiming that the Secretary of the Treasury (Secretary) had erred in concluding that remission of the Japanese tax was not a bounty or grant within the purview of § 303. The Secretary contended that since the remission of the tax was "nonexcessive" (*i. e.*, not above the amount of the tax paid or otherwise due), § 303 did not require assessment of a countervailing duty. Relying on *Downs* v. *United States*, 187 U.S. 496, 23 S.Ct. 222, 47 L.Ed. 275, the Customs Court ruled in petitioner's favor. The Court of Customs and Patent Appeals reversed. *Held:* Japan does not confer a "bounty or grant" within the meaning of § 303 on the consumer electronic products by failing to impose a commodity tax on those products when they are exported to this country, while imposing the tax on the products when they are sold in Japan. *Downs* v. *United States*, *supra*, distinguished. Pp. 2445–2451.

(a) The Secretary's statutory interpretation that was followed in this case has been consistently maintained since the basic countervailing duty statute was enacted in 1897, and that administrative interpretation is entitled to great weight. See *Udall* v. *Taliman*, 380 U.S. 1, 16, 85 S.Ct. 792, 801, 13 L.Ed.2d 616. Pp. 2445–2446.

(b) The legislative history of the statute suggests that the term "bounty" was not intended to encompass the nonexcessive remission of an indirect tax. Pp. 2445–2448.

(c) The Secretary's interpretation was reasonable in light of the statutory purpose of the countervailing duty, *viz*, offsetting the unfair competitive advantage that foreign products would otherwise enjoy from export subsidies paid by their governments. In deciding in 1898 that a nonexcessive remission of indirect taxes did not give the exporter an unfair competitive advantage, the Secretary permissibly viewed the remission as a reasonable measure for avoiding double taxation of exports—once by the foreign country and once upon sale in this country. P. 2448.

(d) The Secretary's interpretation is as permissible today as it was in 1898. The statute has been re-enated five times with no modification of the relevant language, and the Secretary's position has been incorporated into an international agreement followed by every major trading nation in the world. It is not for the judiciary to substitute its views as to the fairness and economic effect of remitting indirect taxes. Pp. 2448–2449.

(e) *Downs* v. *United States*, *supra*, did not involve the issue of whether a nonexcessive remission of taxes, standing alone, would have constituted a bounty on exportation, and is not dispositive of this case. Pp. 2449–2451.

562 F. 2d 1209, affirmed.

Frederick L. Ikenson, Washington, D.C., for petitioner.

Mr. Justice Marshall delivered the opinion of the Court.

Under § 303(a) of the Tariff Act of 1930, 46 Stat. 687, as amended, 19 U.S.C. § 1303(a) (Supp. V, 1975), whenever a foreign country pays a "bounty or grant" upon the exportation of a product from that country, the Secretary of the Treasury is required to levy a countervailing duty, "equal to the net amount of such bounty or grant," upon importation of the product into the United States.[1] The issue in this case is whether Japan confers a "bounty" or "grant" on certain consumer electronic products by failing to impose a commodity tax on those products when they are exported, while imposing the tax on the products when they are sold in Japan.

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Under the Commodity Tax Law of Japan, Law No. 48 of 1962, see App. 44–48, a variety of consumer goods, including the electronic

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[1] Section 303(a) provides in relevant part:

"(1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

* * * * * * *

"(5) The Secretary shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

"(6) The Secretary shall make all regulations he deems necessary for the identification of articles and merchandise subject to duties under this section and for the assessment and collection of such duties. All determinations by the Secretary under this section, and all determinations by the Commission under subsection (b)(1) of this section (whether affirmative or negative) shall be published in the Federal Register." 19 U.S.C. § 1303(a) (Supp. V, 1975).

products at issue here, are subject to an "indirect" tax—a tax levied on the goods themselves, and computed as a percentage of the manufacturer's sales price rather than the income or wealth of the purchaser or seller. The Japanese tax appplies both to products manufactured in Japan and to those imported into Japan.[2] On goods manufactured in Japan, the tax is levied upon shipment from the factory; imported products are taxed when they are withdrawn from the customs warehouse. Only goods destined for consumption in Japan are subject to the tax, however. Products shipped for export are exempt, and any tax paid upon the shipment of a product is refunded if the product is subsequently exported. Thus the tax is "remitted" on exports.[3]

In April 1970 petitioner, an American manufacturer of consumer electronic products, filed a petition with the Commissioner of Customs,[4] requesting assessment of countervailing duties on a number of consumer electronic products exported from Japan to this country.[5] Petitioner alleged that Japan had bestowed a "bounty or grant" upon exportation of these products by, *inter alia*, remitting the Japanese Commodity Tax that would have been imposed had the products been sold within Japan. In January 1976, after soliciting the views of interested parties and conducting an investigation pursuant to Treasury Department regulations, see 19 CFR § 159.47(c) (1977), the Acting, Commissioner of Customs published a notice of final determination, rejecting petitioner's request. 41 Fed. Reg. 1298 (1976).[6]

Petitioner then filed suit in the Customs Court, claiming that the Treasury Department had erred in concluding that remission of the Japanese Commodity Tax was not a bounty or grant within the purview of the countervailing duty statute.[7] The Department defended on the ground that, since the remission of indirect taxes was "nonexcessive," the statute did not require assessment of a countervailing

[2] See App. 12–13, 30–31; An Outline of Japanese Taxes 128–129 (Tax Bureau, Japanese Ministry of Finance, 1976). For the products at issue here, the rate of taxation apparently ranges from 5 to 20%. See App. 13–14; An Outline of Japanese Taxes, *supra*, at 131.

[3] For purposes of this opinion, we adopt the convention followed by the parties and use the term "remission" to encompass both the exemption of exports from initial taxation and the refund to the exporter of any taxes already paid.

[4] The Secretary of the Treasury has delegated the authority to make countervailing duty determinations to the Commissioner of Customs, subject to the Secretary's approval. See 19 CFR § 159.47 (1977).

[5] The products included television receivers, radio receivers, radio-phonograph combinations, radio-television-phonograph combinations, radio-tape recorder combinations, record players and phonographs complete with amplifiers and speakers, tape recorders, tape players, and color television picture tubes. See 37 Fed. Reg. 10087, App. A (1972), as amended, 37 Fed. Reg. 11487 (1972).

[6] The notice stated in relevant part that "on the basis of the * * * facts gathered and the investigation conducted pursuant to * * * Customs Regulations * * * a final determination is hereby made * * * that * * * no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 * * * upon the * * * exportation of certain consumer electronic products from Japan." 41 Fed. Reg. 1298 (1976).

[7] Suit was filed pursuant to a provision, enacted in 1975, authorizing American manufacturers, producers, and wholesalers to seek review in the Customs Court of administrative decisions not to impose countervailing duties under § 303. Tariff Act of 1930, as amended, § 516(d), 19 U.S.C. § 1516(d) (Supp. V, 1975).

duty. In the Department's terminology, a remission of taxes is "nonexcessive" if it does not exceed the amount of tax paid or otherwise due; thus, for example, if a tax of $5 is levied on goods at the factory, the return of the $5 upon exportation would be "nonexcessive," whereas a payment of $8 from the government to the manufacturer upon exportation would be "excessive" by $3. The Department pointed out that the current version of § 303 is in all relevant respects unchanged from the countervailing duty statute enacted by Congress in 1897,[8] and that the Secretary—in decisions dating back to 1898—has always taken the position that the nonexcessive remission of an indirect tax is not a bounty or grant within the meaning of the statute.[9]

On cross-motions for summary judgment, the Customs Court ruled in favor of petitioner and ordered the Secretary to assess countervailing duties on all Japanese consumer electronic products specified in petitioner's complaint. 430 F. Supp. 242 (1977). The court acknowledged the Secretary's longstanding interpretation of the statute. It concluded, however, that this administrative practice could not be sustained in light of this Court's decision in *Downs* v. *United States*, 187 U.S. 496, 23 S.Ct. 222, 47 L.Ed. 275 (1903), which held that an export bounty had been conferred by a complicated Russian scheme for the regulation of sugar production and sale, involving, among other elements, remission of excise taxes in the event of exportation.

On appeal by the Government, the Court of Customs and Patent Appeals, dividing 3–2, reversed the judgment of the Customs Court and remanded for entry of summary judgment in favor of the United States. 562 F. 2d 1209 (1977). The majority opinion distinguished *Downs* on the ground that it did not decide the question of whether nonexcessive remission of an indirect tax, standing alone, constitutes

[8] Section 5 of the Tariff Act of July 24, 1897, 30 Stat. 205, provided in full:

"That whenever any country, dependency, or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, or colony, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties."

The current version of § 303 represents the fifth re-enactment of the 1897 provision without any changes relevant here. Tariff Act of 1909, § 6, 36 Stat. 85; Tariff Act of 1913, § IV(E), 38 Stat. 193; Tariff Act of 1922, § 303, 42 Stat. 935; Tariff Act of 1930, § 303, 46 Stat. 687; Trade Act of 1974, § 331(a), 88 Stat. 2049.

[9] There is no dispute here regarding either the nonexcessive nature of the remission or the indirect nature of the tax. Moreover, although the Department did not so state in the notice of final determination, see n. 6, *supra*, petitioner does not dispute that the Department's decision in this case was based on its longstanding position that the nonexcessive remission of an indirect tax is not a bounty or grant.

a bounty or grant upon exportation. The court then examined the language of § 303 and the legislative history of the 1897 provision and concluded that, "in determining whether a bounty or grant has been conferred, it is the economic result of the foreign government's action which controls." 562 F. 2d, at 1216. Relying primarily on the "long-continued" and "uniform" administrative practice, *id.*, at 1218–1219, 1222–1223, and secondarily on congressional "acquiescence" in this practice through repeated re-enactment of the controlling statutory language, *id.*, at 1220, the court held that interpretation of "bounty or grant" so as not to include a nonexcessive remission of an indirect tax is "a lawfully permissible interpretation of § 303." 562 F. 2d, at 1223.

We granted certiorari, —— U.S. ——, 98 S.Ct. 1231, 55 L.Ed.2d 760 (1978), and we now affirm.

II

It is undisputed that the Treasury Department adopted the statutory interpretation at issue here less than a year after passage of the basic countervailing duty statute in 1897, see T.D. 19321, 1 Synopsis of [Treasury] Decisions 696 (1898), and that the Department has uniformly maintained this position for over 80 years.[10] This long-standing and consistent administrative interpretation is entitled to considerable weight.

> "When faced with a problem of statutory construction, this Court shows great deference to the interpretation given the statute by the officers or agency charged with its administration. 'To sustain [an agency's] application of [a] statutory term, we need not find that its construction is the only reasonable one, or even that it is the result we would have reached had the question arisen in the first instance in judicial proceedings.' " *Udall* v. *Tallman*, 380 U.S. 1, 16, 85 S.Ct. 792, 801, 13 L.Ed.2d 616 (1965), quoting *Unemployment Compensation Commission* v. *Aragon*, 329 U.S. 143, 153, 67 S.Ct. 245, 250, 91 L.Ed. 136 (1946).

Moreover, an administrative "practice has peculiar weight when it involves a contemporaneous construction of a statute by the [persons] charged with the responsibility of setting its machinery in motion, of making the parts work efficiently and smoothly while they are yet untried and new." *Norweigian Nitrogen Products Co.* v. *United States*, 288 U.S. 294, 315, 53 S.Ct. 350, 358, 77 L.Ed. 796 (1933); see e.g., *Power Reactor Co.* v. *Electricians*, 367 U.S. 396, 408, 81 S.Ct. 1529, 1535, 6 L.Ed.2d 924 (1961).

[10] See, *e.g.*, T.D. 19729, 2 Synopsis of Decisions 157 (1898); T.D. 20039, 2 Synopsis of Decisions 534 (1898); T.D. 43634, 56 Treas. Dec. 342 (1929); T.D. 49355, 73 Treas. Dec. 107 (1938).

[1, 2] The question is thus whether, in light of the normal aids to statutory construction, the Department's interpretation is "sufficiently reasonable" to be accepted by a reviewing court. *Train* v. *Natural Resources Defense Council*, 421 U.S. 60, 75, 95 S.Ct. 1470, 1479, 43 L.Ed.2d 731 (1975). Our examination of the language, the legislative history, and the overall purpose of the 1897 provision persuades us that the Department's initial construction of the statute was far from unreasonable; and we are unable to find anything in the events subsequent to that time that convinces us that the Department was required to abandon this interpretation.

A

The language of the 1897 statute evolved out of two earlier countervailing duty provisions that had been applicable only to sugar imports. The first provision was enacted in 1890, apparently for the purpose of protecting domestic sugar refiners from unfair foreign competition; it provided for a fixed countervailing duty on refined sugar imported from countries that "pay * * * , directly or indirectly, a [greater] bounty on the exportation of" refined sugar than on raw sugar. Tariff Act of 1890, ¶ 237, 26 Stat. 584. Although the congressional debates did not focus sharply on the meaning of the word "bounty," what evidence there is suggests that the term was not intended to encompass the nonexcessive remission of an indirect tax. Thus, one strong supporter of increased protection for American sugar producers heavily criticized the export "bounties" conferred by several European governments, and attached a concise description of "The Bounty Systems in Europe"; both the remarks and the description indicated that the "bounties" consisted of the amounts by which government payments exceeded the excise taxes that had been paid upon the beets from which the sugar was produced. See 21 Cong. Rec. 9529, 9532 (1890) (remarks of Sen. Gibson); *id.*, at 9537 (description). According to the description, for example, French sugar manufacturers paid an "excise tax [of] $97.06 per gross ton[,] [b]ut upon the export of a ton of sugar * * * received back as a drawback $117.60, making a clear bounty of $20.54 per gross ton of sugar exported." *Id.*, at 9537.

This concept of a "net" bounty—that is, a remission in excess of taxes paid or otherwise due—as the trigger for a countervailing duty requirement emerged more clearly in the second sugar provision, enacted in 1894. Tariff Act of 1894, ¶ 182½, 28 Stat. 521. The 1894

statute extended the countervailing duty requirement to all imported sugar, raw as well as refined, and provided for payment of a fixed duty on all sugar coming from a country which "pays, directly or indirectly, a bounty on the export thereof." A proviso to the statute made clear, however, that no duties were to be assessed in the event that the "bounty" did not exceed the amount of taxes already paid.[11] The author of the 1894 provision, Senator Jones, expressly characterized this difference between the amounts received upon exportation and the amount already paid in taxes as the "net bounty" on exportation. 26 Cong. Rec. 5705 (1894) (discussing German export bounty system).

The 1897 statute greatly expanded upon the coverage of the 1894 provision by making the countervailing duty requirement applicable to all imported products. Tariff Act of 1897, § 5, 30 Stat. 205, quoted in n. 8, *supra*. There are strong indications, however, that Congress intended to retain the "net bounty" concept of the 1894 provision as criterion for determining when a countervailing duty was to be imposed. Although the proviso in the 1894 law was deleted, the 1897 statute did provide for levying of duties equal to the "net amount" of any export bounty or grant. And the legislative history suggests that this language, in addition to establishing a responsive mechanism for determining the appropriate amount of countervailing duty, was intended to incorporate the prior rule that nonexcessive remission of indirect taxes would not trigger the countervailing requirement at all.

There is no question that the prior rule was carried forward in the version of the 1897 statute that originally passed the House. This version did not extend the countervailing duty requirement to all imports. Instead, it merely modified the 1894 sugar provision so that the amount of the countervailing duty, rather than being fixed, would be "equal to [the export] bounty, or so much thereof as may be in excess of any tax collected by [the foreign] country upon [the] exported [sugar], or upon the beet or cane from which it was produced * * *." See 30 Cong. Rec. 1634 (1897). The House Report unequivocally stated that the countervailing duty was intended to be "equivalent

[11] The proviso specified

"[t]hat the importer of sugar produced in a foreign country, the Government of which grants such direct or indirect bounties, may be relieved from this additional duty under such regulations as the Secretary of the Treasury may prescribe, in case said importer produces a certificate of said Government that *no indirect bounty has been received upon said sugar in excess of the tax collected upon the beet or cane from which it was produced*, and that no direct bounty has been or shall be paid. * * *" 28 Stat. 521 (italic added).

to the *net export bounty* paid by any country." H.R. Rep. No. 1, 55th Cong., 1st Sess., 4–5 (1897) (italic supplied).

The Senate deleted the House provision from the bill and replaced it with the more general provision that was eventually enacted into law. See 30 Cong. Rec., at 1733 (striking House provision); *id.*, at 2226 (adopting general provision); *id.*, at 2705, 2750 (House agreement to Senate amendment). The debates in the Senate indicate, however, that—aside from extending the coverage of the House provision—the Senate did not intend to change its substance. Senator Allison, the sponsor of the Senate amendment, explained that the House provision was being "stricken from the bill," because "the same paragraph in substance [is] being inserted [in] section [5], making this countervailing duty apply to all articles instead of to [sugar] alone." *Id.*, at 1635. See also *id.*, at 1732 (remarks of Sen. White). Senator Allison twice remarked that the countervailing duty that he was proposing was an "imitation" of the one provided in the 1894 statute, *id.*, at 1719; see *id.*, at 1674, and later in the debates he stated—in response to a question as to whether the countervailing duty would be equal to "the whole amount of the export bounty"—that "[the bounty contemplated] is the net bounty, less the taxes and reductions * * *," *id.*, at 1721 (answering question from Sen. Vest).

An additional indication of the Senate's intent can be found in the extended discussion of the effect that the statute would have with respect to German sugar exports. Time after time the amount of the German "bounty"—and, correspondingly, the amount of the countervailing duty that would be imposed under the statute—was stated to be 38¢ per 100 pounds of refined sugar, and 27¢ per 100 pounds of raw sugar. See, e.g., *id.*, at 1650 (remarks of Sens. Allison, Vest, and Caffery), 1658 (Sens. Allison and Jones), 1680 (Sen. Jones), 1719 (Sens. Allison and Lindsay), 1729 (Sen. Caffery), 2823–2824 (Sens. Aldrich and Jones). These figures were supplied by the Treasury Department itself, see *id.*, at 1719 (remarks of Sen. Allison), 1722 (letter from Treasury Department to Sen. Caffery), and were utilized by both proponents and opponents of the measure. And yet it was frequently acknowledged during the debates that Germany exempted sugar exports from its domestic consumption tax of $2.16 per 100 pounds, an amount far in excess of the 38¢ and 27¢ figures. See, e.g., *id.*, at 1646 (remarks of Sen. Vest), 1651 (Sen. Caffery), 1697 (same), 2205 (same). Had the Senators considered the mere remission of an indirect tax to be a "bounty," it seems unlikely that they would have stated that the

German "bounties" were only 38¢ and 27¢ per 100 pounds.[12] Especially in light of the strong opposition to countervailing duties even of the magnitude of 38¢ and 27¢ see e.g., *id.*, at 1719 (remarks of Sen. Lindsay) 2203–2205 (remarks of Sen. Gray), it seems reasonable to infer that Congress did not intend to impose countervailing duties of many times this magnitude.

B

[3] Regardless of whether this legislative history absolutely compelled the Secretary to interpret "bounty or grant" so as not to encompass any nonexcessive remission of an indirect tax, there can be no doubt that such a construction was reasonable in light of the statutory purpose. Cf. *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 374, 93 S. Ct. 1652, 1663, 36 L.Ed. 2d 318 (1973). This purpose is relatively clear from the face of the statute and is confirmed by the congressional debates: the countervailing duty was intended to offset the unfair competitive advantage that foreign producers would otherwise enjoy from export subsidies paid by their governments. See, e.g., 30 Cong. Rec., at 1674 (remarks of Sen. Allison), 2205 (Sen. Caffery), 2225 (Sen. Lindsay). The Treasury Department was well-positioned to establish rules of decision that would accurately carry out this purpose. particularly since it had contributed the very figures relied upon by Congress in enacting the statute. See *Zuber* v. *Allen*, 396 U.S. 168, 192, 90 S. Ct. 314, 327, 24 L.Ed. 2d 345 (1969).

In deciding in 1898 that a nonexcessive remission of indirect taxes did not result in the type of competitive advantage that Congress intended to counteract, the Department was clearly acting in accordance with the shared assumptions of the day as to the fairness and economic effect of that practice. The theory underlying the Depart-

[12] The figures of 38¢ and 27¢ per 100 pounds apparently represented the amount of direct bounty paid upon exportation. See, *e.g.*, 30 Cong. Rec., at 1722 (letter from Treasury Department).

Petitioner argues that the Senate must have intended the term "bounty" to include nonexcessive remissions of indirect taxes, since Germany collected a tax on the output of sugar factories that was not remitted upon exportation and yet was not subtracted from the figures of 38¢ and 27¢ cited as the "bounties" paid by Germany. The sole evidence cited by petitioner to show that Germany in fact collected such a tax is an exhibit to the testimony of a single witness during hearings conducted *by the House* on 1896. See Tariff Hearings before the House Committee on Ways and Means, 54th Cong., 2d Sess., 617-618. We have been unable to find any references to this tax anywhere in the Senate debates; moreover, to the extent that anyone contemplated the existence of German taxes that were not remitted upon exportation, the assumption appears to have been that they would be deducted from the 38¢ and 27¢ figures in determining the net amount of the bounty to be countervailed. The following exchange between Senators Allison and Vest is illustrative:

"Mr. VEST. What * * * is the amount of export bounty, taking out taxes, etc., granted by Germany?

"Mr. ALLISON. * * * Of course it can not exceed three-eighths of a cent a pound—thirty-eight one-hundredths on refined sugar—nor can it exceed twenty-seven one-hundredths upon raw sugar. But it may be very much less." 30 Cong. Rec., at 1721.

We note in any event that the amount of the tax cited by petitioner was less than 2¢ per 100 pounds, see Tariff Hearings, *supra*, at 617, whereas the consumption tax—which concededly was remitted upon exportation and yet not added to the figures of 38¢ and 27¢—was in the vicinity of $2.16 per 100 pounds.

ment's position was that a foreign country's remission of indirect taxes did not constitute subsidization of that country's exports. Rather, such remission was viewed as a reasonable measure for avoiding double taxation of exports—once by the foreign country and once upon sale in this country. As explained in a recent study prepared by the Department for the Senate Committee on Finance,

> "[the Department's construction was] based on the principle that, since exports are not consumed in the country of production, they should not be subject to consumption taxes in that country. The theory has been that the application of countervailing duties to the rebate of consumption [and other indirect] taxes would have the effect of double taxation of the product, since the United States would not only impose its own indirect taxes, such as Federal and state excise taxes and state and local sales taxes, but would also collect, through the use of the countervailing duty, the indirect tax imposed by the exporting country on domestically consumed goods." Executive Branch GATT Studies, Senate Committee on Finance, 93d Cong., 2d Sess., 17–18 (1974).

This intuitively appealing principle regarding double taxation had been widely accepted both in this country and abroad for many years prior to enactment of the 1897 statute. See, e.g., Act of July 4, 1789, § 3, 1 Stat. 26 (remission of import duties upon exportation of products); 4 D. Ricardo, Works and Correspondence 216–217 (P. Sraffa ed. 1951) (first published in 1822; A. Smith, An Inquiry Into the Nature and Causes of the Wealth of Nations, Book Four, ch IV. (1776).

C

[4] The Secretary's interpretation of the countervailing duty statute is as permissible today as it was in 1898. The statute has been re-enacted five times by Congress without any modification of the relevant language, see n. 8, *supra*, and, whether or not Congress can be said to have "acquiesced" in the administrative practice, it certainly has not acted to change it. At the same time, the Secretary's position has been incorporated into the General Agreement on Tariffs and Trade (GATT),[13] which is followed by every major trading nation in the world; foreign tax systems as well as private expectations thus have been built on the assumption that countervailing duties would not be imposed on nonexcessive remissions of indirect taxes. In light

[13] Article VI(3) of the GATT, adopted in 1947, 61 Stat. A24, provides that "[n]o product * * * imported into the territory of any other contracting party shall be subject to * * * countervailing duty by reason of the exemption of such product from * * * taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such * * * taxes." The Government does not contend that the GATT provision would supersede § 303 in the event of conflict between the two. Brief for the United States 19n. 11.

of these substantial reliance interests, the longstanding administrative construction of the statute should "not be disturbed except for cogent reasons." *McLaren* v. *Fleischer*, 256 U.S. 477, 481, 41 S.Ct. 577, 578, 65 L.Ed.2d 1052 (1921); see *Udall* v. *Tallman*, *supra*, 380 U.S. at, 18, 85 S.Ct., at 802.

Aside from the contention, discussed in Part III, *infra*, that the Department's construction is inconsistent with this Court's decisions, petitioner's sole argument is that the Department's position is premised on false economic assumptions that should be rejected by the courts. In particular, petitioner points to "modern" economic theory suggesting that remission of indirect taxes may create an incentive to export in some circumstances, and to recent criticism of the GATT rules as favoring producers in countries that rely more heavily on indirect than on direct taxes.[14] But, even assuming that these arguments are at all relevant in view of the legislative history of the 1897 provision and the longstanding administrative construction of the statute, they do not demonstrate the unreasonableness of the Secretary's current position. Even "modern" economists do not agree on the ultimate economic effect of remitting indirect taxes, and—given the present state of economic knowledge—it may be difficult, if not impossible, to measure the precise effect in any particular case. See, *e.g.*, Executive Branch GATT Studies, *supra*, at 13–14, 17; Marks & Malmgren, *supra*, n. 14, at 351. More fundamentally, as the Senate Committee with responsibility in this area recently stated, "the issues involved in applying the countervailing duty law are complex, and * * * internationally, there is [a] lack of any satisfactory agreement on what constitutes a fair, as opposed to an 'unfair,' subsidy." S. Rep. No. 93–1298, p. 183 (1974). In this situation, it is not the task of the judiciary to substitute its views as to fairness and economic effect for those of the Secretary.

III

Notwithstanding all of the foregoing considerations, this would be a very different case if, as petitioner contends, the Secretary's practice were contrary to this Court's decision in *Downs* v. *United States*, *supra*,

[14] See, *e.g.*, Marks & Malmgren, Negotiating Nontariff Distortions to Trade, 7 L. & Policy in Int'l Bus. 327, 351–355 (1975); The United States Submission on Border Tax Adjustments to Working Party No. 4 of the Council on Border Tax Adjustments, Organization for Economic Cooperation and Development (1966), reprinted in App. 93–116; Paper Submitted by John R. Petty, Assn't Sec'y of the Treasury, Twenty-First Annual Conference of the Canadian Tax Foundation (1968), reprinted in App. 117–138. Both the Secretary and GATT apparently consider remissions of direct taxes (*e.g.*, income taxes) to be countervailable export subsidies. See Brief for the United States 18 n. 10, 37–38; GATT, Basic Instruments and Selected Documents, 9th Supp., at 186–187 (1961).

187 U.S. 496, 23 S.Ct. 222, 47 L.Ed. 275.[15] Upon close examination of the admittedly opaque opinion in that case, however, we do not believe that *Downs* is controlling on the question presented here.

The Russian sugar laws at issue in *Downs* were, as the Court noted, "very complicated." *Id.*, at 502, 23 S.Ct., at 223. Much of the Court's opinion was devoted to an exposition of these provisions, see *id.*, at 502–512, 23 S.Ct., at 223–227, but for present purposes only two features are relevant: (1) excise taxes imposed on sugar sales within Russia were remitted on exports; and (2) the exporter received, in addition, a certificate entitling its bearer to sell an amount of sugar in Russia, equal to the quantity exported, without paying the full excise tax otherwise due. This certificate was transferable and had a substantial market value related to the amount of tax forgiveness that it carried with it.

The Secretary, following the same interpretation of the statute that he followed here, imposed a countervailing duty based on the value of the certificates alone, and not on the excise taxes remitted on the exports themselves.[16] Downs, the importer, sought review, claiming that the Russian system did not confer any countervailable bounty or grant within the meaning of the 1897 statute. He did not otherwise challenge the amount of the duty assessed by the Secretary.[17]

The issue as it came before this Court, therefore, was whether a nonexcessive remission of an indirect tax, together with the granting of an additional benefit represented by the value of the certificate, constituted a "bounty or grant." Since the amount of the bounty was not in question, neither the parties nor this Court focused carefully on the distinction between remission of the excise tax and conferral of the certificate. Petitioner argues, however, that certain broad language in the Court's opinion suggests that mere remission of a tax, even if nonexcessive, must be considered a bounty or grant within the meaning of the statute. Petitioner relies in particular on the following language:

> "The details of this elaborate procedure for the production, sale, taxation and exportation of Russian sugar are of much less importance than the two facts which appear clearly through

[15] Petitioner also relies on language in *G. S. Nicholas & Co.* v. *United States*, 249 U.S. 34, 39 S.Ct. 218, 63 L.Ed. 461 (1919), suggesting that the countervailing duty statute was intended to be read broadly. See *id.*, at 39–41, 39 S.Ct., at 220. As petitioner concedes, however, the only question before the Court in that case was whether a direct bounty on exportation of liquor from Great Britain was a "bounty or grant" within the meaning of the statute, see Brief for Petitioner 16–17, and the Court did not address the question of whether nonexcessive remission of an indirect tax fell within the statute.

[16] See Memorandum from the Secretary of the Treasury (1901), reprinted in App. 49–51; T.D. 20407, 2 Synopsis of Decisions 996, 997–998 (1898); T.D. 22814, 4 Treas. Dec. 184 (1901); *Downs* v. *United States*, 113 Fed. 144, 145 (CA4 1902).

[17] In rejecting Downs' claim, both the United States Board of General Appraisers and the Fourth Circuit Court of Appeals identified the "bounty" as residing in the value of the certificates granted upon exportation. See T.D. 22984, 4 Treas. Dec. 405, 410–411, 413 (1901); *Downs* v. *United States*, *supra*, 113 Fed., at 145.

> this maze of regulations, viz.: that no sugar is permitted to be sold in Russia that does not pay an excise tax of R. 1.75 per pood, and that sugar exported pays no tax at all. * * * When a tax is imposed upon all sugar produced, but is remitted upon all sugar exported, then, by whatever process, or in whatever manner, or under whatever name it is disguised, it is a bounty upon exportation." *Id.*, 187 U.S., at 515, 23 S.Ct., at 228.

This passage is inconsistent with both preceding and subsequent language which suggests that the Court understood the "bounty" to reside in the value of the certificates. At one point the Court stated that "[t]he amount [the exporter] receives for his export certificate [on the market], say R. 1.25, is the exact amount of the bounty he receives upon exportation * * *." 187 U.S., at 515, 23 S.Ct., at 228.[18] And the Court in conclusion specifically endorsed the Fourth Circuit's holding to the same effect, see n. 17, *supra:*

> "[T]he Circuit Court of Appeals found: 'That the Russian exporter of sugar obtained from his government a certificate, solely because of such exportation, which is worth in the open market of that country from R. 1.25 to R. 1.64 per pood, or from 1.8 to 2.35 cents per pound. Therefore we hold that the government of Russia does secure to the exporter of that country, as the inevitable result of its action, a money reward or gratuity whenever he exports sugar from Russia.' We all concur in this expression of opinion." 187 U.S., at 516, 23 S.Ct., at 229.

Given this other language, we cannot read for its broadest implications the passage on which petitioner relies. In our view the passage does no more than establish the proposition that an *excessive* remission of taxes—there, the combination of the exemption with the certificates—is an export bounty within the meaning of the statute.

As the court below noted, " '[i]t is a maxim, not to be disregarded, that general expressions in every opinion, are to be taken in connection with the case in which those expressions are used.' " 562 F. 2d, at 1213, quoting *Cohens* v. *Virginia*, 6 Wheat. 264, 398, 5 L.Ed. 257 (1821). No one argued in *Downs* that a nonexcessive remission of taxes, standing alone, would have constituted a bounty on exportation, and indeed that issue was not presented on the facts of the case. It must also be remembered, of course, that the Court did affirm the Secretary's decision, and that decision rested on the conclusion that a bounty had been paid only to the extent that the remission exceeded

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[18] The Court also noted that "[i]t is practically admitted in this case that a bounty equal to the value of [the] certificates is paid by the Russian government, and the main argument of the petitioner is addressed to the proposition that this bounty is paid, not upon exportation, but upon production." 187 U.S., at 512, 23 S.Ct., at 227. This latter argument was based on the fact that the 1897 statute covered only bounties on exportation and not those on production. In 1922, Congress amended the statute to cover bounties on production and manufacture as well as exportation. Tariff Act of 1922, *supra*, n. 8.

the taxes otherwise due. In light of all these circumstances, the isolated statement in *Downs* relied upon by petitioner cannot be dispositive here.

The judgment of the Court of Customs and Patent Appeals is, accordingly,

Affirmed.

(T.D. 78–481)

Notice That Final Court Decisions Adverse to the Customs Service will be Given General Effect Unless a Limiting Ruling is Published Within 180 Days; Modification and Clarification of T.D. 78–302

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The Customs Regulations provide that the Customs Service, with certain exceptions, may limit the application of an adverse decision of the Customs Court or the Court of Customs and Patent Appeals to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling. A recent Customs Service notice established a procedure to inform Customs officers and the public that the general application of adverse decisions would be delayed until a notice of acquiescence or limiting ruling is published in the CUSTOMS BULLETIN, not later than 180 days after the adverse decision. It has been determined that a notice of acquiescence is not required; that in the unusual circumstances in which it is decided to limit the application of a court decision, a limiting ruling will be published in the CUSTOMS BULLETIN not later than 180 days after the adverse decision; and that in the absence of the publication of a limiting decision, the adverse decision will be given general application after the period for publication has expired. The previous notice is modified accordingly.

DATES: The procedures set forth in this notice shall be effective with respect to all transactions or protests pending on, or arising on or after, the date of its publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Salvatore E. Caramagno, Director, Classification and Value Division, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202–566–5868.

SUPPLEMENTARY INFORMATION:

BACKGROUND

DISCUSSION OF APPLICABLE CUSTOMS REGULATIONS

Section 176.31, Customs Regulations (19 CFR 176.31), provides that entries which are the subject of litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision.

However, section 152.16(e), Customs Regulations (19 CFR 152.16(e)), provides that the Customs Service:

1. May limit the application of the principles of any adverse decision, except a decision upholding a petition of an American manufacturer, producer, or wholesaler, under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), to the specific entries which were the subject of the decision, and

2. May provide for the application of the decision, in a manner which it considers appropriate, to unliquidated entries and protested entries that have not been denied, in whole or in part, which involve the same issue as that decided by the court.

Section 177.50(d), Customs Regulations (19 CFR 177.10(d)), similarly provides that the Customs Service may limit the application of an adverse judicial decision to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling. No timeframe within which the limiting ruling must be published is provided.

T.D. 78–302

T.D. 78–302, published in the Federal Register on August 31, 1978 (43 F.R. 38817), established a uniform procedure under which no action would be taken on unliquidated entries and pending protests not specifically the subject of the adverse decision, but to which the principles of the decision would apply, until the Customs Service published, in the alternative, a notice of acquiescence in the desision or a ruling limiting the application of the decision.

The purpose of T.D. 78–302 was to establish a procedure requiring the Customs Service to announce within restrictive time constraints its infrequent determination to limit the application of an adverse decision to the specific article under litigation, or to an article of a specific class or kind of such or similar merchandise, or to the particular circumstances or entries which were the subject of the litigation.

The limiting ruling, which would be made under the authority in sections 152.16(e) and 177.10(d), Customs Regulations, would remain

in effect until the legal principle or issue involved could be reconsidered by the courts on the basis of a more complete presentation of evidence.

Neither T.D. 78–302 nor the Customs Regulations intended in any way to question the binding effect of a final adverse judicial decision, or the obligation of the Customs Service to abide by that decision, in respect to the entries which are the subject of the case before the court. In this respect, as noted previously, section 176.31, Customs Regulations, provides specifically that entries which are the subject of the litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision.

In those relatively rare and unusual circumstances in which a determination to limit an adverse decision is made, usually in cases in which the Customs Service believes that the specific evidence available for judicial evaluation has not provided to the courts an adequate basis for establishing a universally applicable rule of law, T.D. 78–302 set maximum time constraints on the announcement by the Customs Service of its determination to limit the application of the decision. The absence of such a time constraint had created a vacuum in the past with respect to adverse judicial decisions in which Customs field officers were unable to determine whether other entries of merchandise of the class or kind involved in the adverse adjudication should be liquidated, or action on protests taken, in accordance with the court decision; and the liquidation of entries often was delayed without justification, or liquidations at different ports lacked uniformity of treatment.

Although the procedure for implementing judicial decisions was established primarily for the guidance of Customs field officers, T.D. 78–302 was published in the Federal Register and the CUSTOMS BULLETIN to provide formal notice of its time constraints to the public as well. To clarify the ambiguities arising from the publication of T.D. 78–302, it has been decided to reformulate the procedures set out therein.

The requirement that the Customs Service publish a notice of acquiescence in those cases in which it is not intended to publish a limiting ruling is withdrawn. As a result, absent publication of a limiting ruling within 180 days after the adverse judicial decision, the principles on which that decision is based will be considered of general applicability. Of course, the adverse decision will continue to be applied immediately to entries or protests which are the subject of the litigation.

T.D. 78–302 MODIFIED—PROCEDURES RESTATED

To clarify the scope and intent of T.D. 78–302, effective on the date of publication of this Notice in the Federal Register, the procedures set out in that Treasury decision are modified to provide as follows:

1. Entries which are the subject of an unappealed adverse judicial decision will be reliquidated immediately, in accordance with the decision, as provided for in section 176.31, Customs Regulations (19 CFR 176.31).

2. The Customs Service will not publish notices of acquiescence in adverse judicial determinations.

3. To assure uniformity in the liquidation of entries not involved in specific adverse judicial decisions, liquidation of entries or action on protested entries pending when the adverse decision is issued, and which may be affected by the decision, will be suspended for a period of 180 days following the date. If a limiting ruling is not issued within that 180-day period, pursuant to sections 152.16(e) and 177.10(d), Customs Regulations (19 CFR 152.16(e), 177.10(d)), and the adverse decision has become final, its principles will be applied immediately for the purpose of liquidating all entries, or acting on all protests, action on which may have been suspended in accordance with this paragraph, and as a binding interpretation of the applicable law with respect to all subsequent entries or protests.

4. In those unusual instances in which the binding effect of a final adverse decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals which has not been appealed may be the subject of a ruling published in accordance with sections 152.16(e) and 177.10(d), Customs Regulations, which would limit the binding effect of the decision to the specific article involved in the litigation, or to an article of a specific class or kind of such or similar merchandise, or to the particular circumstances or entries which were the subject of the litigation, the limiting ruling shall be published as soon as practicable, but not later than 180 days after issuance of the adverse decision.

T.D. 78–302 is modified and superseded to the extent that it is inconsistent with the procedures set forth herein.

Dated: November 29, 1978.

R. E. CHASEN,
Commissioner of Customs.

[Published in the Federal Register, Dec. 6, 1978 (43 F.R. 57208)]

(T.D. 78-482)

Bonds

Approval and discontinuance of carrier bonds, Customs form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Dated: November 29, 1978.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Blalock Truck Lines, Inc., P.O. Box 734, Charleston, SC; motor carrier; Mid-Century Ins. Co. (PB 2/24/76) D 10/16/78 [1]	Sept. 12, 1978	Oct. 16, 1978	Charleston, SC; $25,000
Central Cartage Co., 34200 Mound Rd., Sterling Heights, MI; motor carrier; American Insurance Co. (PB 9/1/75) D 10/16/78 [2]	Sept. 1, 1978	Oct. 16, 1978	Detroit, MI; $50,000
Central Transport, Inc., 34200 Mound Rd., Sterling Hights, MI; motor carrier; American Insurance Co. (PB 9/1/75) D 10/16/78 [3]	Sept. 1, 1978	Oct. 16, 1978	Detroit, MI; $50,000
Citizens Warehouse Trucking Co., Inc., 2455 East 27th St., Los Angeles, CA; motor carrier; Washington International Ins. Co.	Sept. 28, 1978	Oct. 17, 1978	Los Angeles, CA; $50,000
Crescent Motor Lines, Inc., P. O. Box 2107, Spartanburg, SC; motor carrier; Hartford Accident & Indemnity Co. D 9/27/78	Feb. 21, 1973	Feb. 21, 1973	Charleston, SC; $25,000
Duff Truck Line, Inc., P. O. Box 359, Broadway and Vine, Lima, OH; motor carrier; Indiana Ins. Co. (PB 9/16/68) D 10/11/78 [4]	Sept. 16, 1978	Oct. 11, 1978	Cleveland, OH; $50,000
Florida East Coast Highway Dispatch Co. of Florida, One Malaga St., St. Augustine, FL; motor carrier; Seaboard Surety Company (PB 10/5/70) D 10/4/78 [5]	Oct. 5, 1978	Oct. 5, 1978	Miami, FL; $100,000
Benjamin Dimedio, Jr. T/A Freight Consultants, 301 Jackson St., Camden, NJ; motor carrier; Employers Mutual Liability Ins. Co. of WI	Oct. 4, 1978	Oct. 5, 1978	Philadelphia, PA; $25,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Gateway Transfer, Inc., 1319 Sta. Rita Ave., Laredo, TX; motor carrier; American Indemnity Co. (PB 4/11/77) D 10/20/78 [6]	Aug. 3, 1978	Oct. 20, 1978	Laredo, TX; $25,000
Indianhead Truck Line, Inc., 1947 West County Road C, St. Paul, MN; motor carrier; Great American Ins. Co. (TB 1/28/69) D 10/13/78 [7]	Oct. 4, 1978	Oct. 13, 1978	Minneapolis, MN; $35,000
Keyline Freight Inc., 15 Andre St. s.e., Grand Rapids, MI; motor carrier; American Ins. Co. D 11/7/78	Nov. 23, 1976	Oct. 20, 1976	Detroit, MI; $100,000
Kunkle Transfer & Storage Co., P. O. Box 3498, Phoenix, AZ; motor carrier; The Aetna Casualty & Surety Co. (PB 8/29/75) D 10/24/78 [8]	Oct. 23, 1978	Oct. 24, 1978	Nogales, AZ; $25,000
M & M Transportation Co., 186 Alewife Brook Parkway, Cambridge, MA; motor carrier; The Aetna Casualty & Surety Co. D 5/9/77	Sept. 6, 1974	Sept. 6, 1974	Boston, MA; $50,000
McKinlay Transport Limited Inc., 34200 Mound Rd., Sterling Heights, MI; motor carrier; American Ins. Co. (PB 9/1/75) D 10/16/78 [9]	Sept. 1, 1978	Oct. 16, 1978	Detroit, MI; $50,000
Miami International Forwarders, 3050 Biscayne Blvd., Suite 703, Miami, FL; motor carrier; St. Paul Fire & Marine Ins. Co. D 9/11/78	June 28, 1975	June 28, 1975	Miami, FL; $25,000
Roadway Express, Inc., 1077 Gorge Blvd., P. O. Box 471, Akron, OH; motor carrier; Protective Ins. Co. (PB 8/24/73) D 11/1/78 [10]	Oct. 1, 1978	Nov. 1, 1978	Cleveland, OH; $200,000
Saenz Brothers Trucking & Tomato Co., Inc., 249 Terminal Market, San Antonio, TX; motor carrier; National Surety Corp. (PB 8/19/74) D 10/10/78 [11]	Aug. 13, 1978	Oct. 10, 1978	Laredo, TX; $25,000
T-A-T-Airfreight, Inc., 2960 NW 74th Ave., Miami, FL; air carrier; St. Paul Fire & Marine Ins. Co.	Sept. 29, 1978	Sept. 29, 1978	Miami, FL; $25,000
Tropical Customs Brokers, Inc., 2402 NW 72nd Ave., Miami, FL; motor carrier; Investors Ins. Co. of America (PB 11/3/77) D 9/19/78 [12]	Sept. 20, 1978	Sept. 20, 1978	Miami, FL; $25,000
Western Express, Div. of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA; motor carrier; St. Paul Fire & Marine Ins. Co.	Aug. 17, 1978	Oct. 20, 1978	Los Angeles, CA; $60,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Western Transportation Co., 1300 W. 35th St., Chicago, IL; motor carrier; Great American Ins. Co. D 10/30/78	Jan. 13, 1978	Jan. 19, 1978	Chicago, IL; $25,000

[1] Surety is Reliance Ins. Co.
[2] Surety is Lumbermens Mutual Casualty Co.
[3] Surety is Lumbermens Mutual Casualty Co.
[4] Surety is Continental Casualty Co.
[5] Surety is U.S. Fidelity & Guaranty Co.
[6] Surety is Fidelity & Deposit Co. of MD
[7] Surety is Agricultural Ins. Co.
[8] Surety is Ins. Co. of North America
[9] Surety is Lumbermens Mutual Casualty Co.
[10] Surety is Royal Globe Ins. Co.
[11] Principal in Saena Brothers
[12] Surety is Peerless Inc. Co.

BON-3-03

DONALD W. LEWIS
(For Leonard Lehman, Assistant
Commissioner, Regulations and Rulings).

(T.D. 78-483)

Bonds

Approval and discontinuance of bonds on Customs form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parenthesis immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Dated: November 29, 1978.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Airco Inc., Div. Ohio Medical Prod. Airco Industrial Gases, 85 Chestnut Ridge Rd., Montvale, NJ; Federal Ins. Co. (PB 6/20/73) D 10/11/78 [1]	Oct. 10, 1978	Oct. 11, 1978	New York Seaport; $10,000
Amoco Chemicals Corp., 200 East Randolph Dr., Chicago, IL; Seaboard Surety Co. (PB 8/1/77) D 10/20/78	Oct. 6, 1978	Oct. 20, 1978	Mobile, AL; $10,000
Amoco International Oil Co., 200 East Randolph Dr., Chicago, IL; Seaboard Surety Co.	Oct. 16, 1978	Oct. 26, 1978	Houston, TX; $10,000
Bekaert Steel Wire Corp., 800 Third Ave., New York, NY; Investors Insurance Co. of America (PB 5/26/69) D 10/12/78 [2]	Oct. 12, 1978	Oct. 12, 1978	New York Seaport; $10,000
Bell Distributing Co., 1330 North B St., Sacramento, CA; Federal Ins. Co.	Oct. 25, 1978	Oct. 30, 1978	San Francisco, CA $10,000
J. C. Brock Corp., 95 Kentucky St., Buffalo, NY; United States Fidelity and Guaranty Co. (PB 10/6/67) D 9/15/78 [3]	Aug. 16, 1978	Sept. 15, 1978	Buffalo, NY; $10,000
Emery Distribution Systems, Inc., d/b/a Emery Customs Brokers and Emery Ocean Freight, Buffalo International Airport, Buffalo, NY; Federal Ins. Co. (PB 10/18/77) D 9/26/78 [4]	Sept. 19, 1978	Sept. 26, 1978	Buffalo, NY; $10,000
International Maritime Carriers, Inc., 401 Church St., P.O. Box 2884, Mobile, AL; St. Paul Fire & Marine Ins. Co.	Nov. 6, 1978	Nov. 6, 1978	Mobile, AL; $10,000
R. J. Kunik & Co., Inc., One Decker Square, Bala Cynwyd, PA; Federal Ins. Co. D 1/9/76	Dec. 27, 1971	Dec. 27, 1971	Philadelphia, PA; $25,000
M T S Agencies, Inc., 40 Rector St., New York, NY; Federal Ins. Co. D 9/1/78	July 8, 1977	July 20, 1977	New York Seaport $10,000
North American Maritime Agencies, 100 California St., San Francisco, CA; Old Republic Ins. Co. (PB 10/30/77) D 10/30/78 [5]	Oct. 30, 1978	Oct. 30, 1978	San Francisco, CA; $10,000
Overseas Freight Corp., P.O. Box 1566, Mobile, AL; Fidelity and Deposit Co.	Oct. 17, 1978	Oct. 25, 1978	Mobile, AL; $10,000
Overseas Shipping Co., One California St., San Francisco, CA; Safeco Ins. Co. of America (PB 4/6/61) D 8/4/78 [6]	Aug. 4, 1978	Aug. 4, 1978	San Francisco, CA; $50,000
Salmon Shipping Co., Ltd., 6300 Richmond Ave., Suite 202, Houston, TX; St. Paul Fire & Marine Ins. Co.	Aug. 10, 1978	Aug. 18, 1978	Houston, TX; $10,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Seaway Express Lines, 444 W. Ocean Blvd., Suite 1200 Long Beach, CA; Washington International Ins. Co.	Aug. 9, 1978	Aug. 31, 1978	Los Angeles, CA; $50,000

[1] Principal is Airco, Inc.
[2] Surety is St. Paul Fire & Marine Ins. Co.
[3] Surety is The Aetna Casualty & Surety Co.
[4] Surety is American Motorists Ins. Co.
[5] Surety is Washington International Ins. Co.
[6] Surety is St. Paul Mercury Ins. Co.

BON-3-10

DONALD W. LEWIS
(For Leonard Lehman, Assistant Commissioner, Regulations and Rulings).

(T.D. 78-484)

White or Irish Potatoes, Other Than Certified Seed—Tariff-Rate Quota

Tariff-rate quota for the quota year beginning September 15, 1978, for white or Irish potatoes, other than certified seed

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for white or Irish potatoes, other than certified seed, for the 12-month period beginning September 15, 1978.

SUMMARY: The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1978, is 45 million pounds.

EFFECTIVE DATES: The 1978 tariff-rate quota is applicable to white or Irish potatoes described in item 137.25, TSUS, entered, or withdrawn from warehouse, for consumption during the 12-month period beginning September 15, 1978.

FOR FURTHER INFORMATION CONTACT: Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229; 202-566-8592.

SUPPLEMENTARY INFORMATION: Each year the tariff-rate quota for potatoes described in item 137.25, Tariff Schedules of the United States (TSUS), is based on the estimate by the Department of Agriculture of potatoes produced during the calendar year.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1978, made by the U.S. Department of Agriculture as of September 1, 1978, was in excess of 21 billion pounds.

In accordance with headnote 2, part 8A, of schedule 1, Tariff Schedules of the United States, the quota quantity is not increased because the estimated production is greater than 21 billion pounds.

December 1, 1978.

G. R. DICKERSON,
Acting Commissioner of Customs.

[Published in the Federal Register December 19, 1978 (43 FR ——)]

(T.D. 78-485)

Foreign Currencies—Daily Rates for Countries Not On Quarterly List

Rates of exchange based on rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, People's Republic of China yuan, Philippines peso, Singapore dollar, Thailand baht (tical).

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to part 159, subpart C, Customs Regulations (19 CFR 159, subpart C).

People's Republic of China yuan:

November 20–22, 1978	$0.606980
November 23, 1978	Holiday
November 24, 1978	.609422

Hong Kong dollar:

November 20, 1978	$0.2076
November 21, 1978	.2070
November 22, 1978	.2067
November 23, 1978	Holiday
November 24, 1978	.2073

Iran rial:	
November 20–22, 1978	$0.014150
November 23, 1978	Holiday
November 24, 1978	.014150
Philippines peso:	
November 20–22, 1978	$0.1365
November 23, 1978	Holiday
November 24, 1978	.1367
Singapore dollar:	
November 20, 1978	$0.4450
November 21, 1978	.4448
November 22, 1978	.4486
November 23, 1978	Holiday
November 24, 1978	.4535
Thailand baht (tical):	
November 20–22, 1978	$0.0493
November 23, 1978	Holiday
November 24, 1978	.0500

(LIQ–3–O:D:E)

Date: December 4, 1978.

BEN L. IRVIN,
Acting Director,
Duty Assessment Division.

(T.D. 78–486)

Foreign Currencies—Variances From Quarterly Rate

Rates of exchange based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in T.D. 78–382 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Sri Lanka rupee:	
November 24, 1978	$0.0670
Switzerland franc:	
November 20, 1978	$0.574383
November 21, 1978	.580383
November 22, 1978	.580046
November 23, 1978	Holiday
November 24, 1978	.575540

(LIQ-3-O:D:E)

Date: December 4, 1978.

BEN L. IRVIN,
Acting Director,
Duty Assessment Division.

(T.D. 78-487)

TITLE 19—CUSTOMS DUTIES

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 153—ANTIDUMPING

Steel Wire Strand for Prestressed Concrete From Japan

AGENCY: U.S. Treasury Department.

ACTION: Finding of dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that steel wire strand for prestressed concrete from Japan is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise, with the exception of that produced and sold by one producer, will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: December 8, 1978

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-5492.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the act"), gives the Secretary of the Treasury responsibility for the determination of sales at less than fair value. Pursuant to this authority the Secretary has determined that steel wire strand from Japan, except that produced by Kawatetsu Wire Products Co., Ltd., is being sold at less than fair value within the meaning of section 201(a) of the act (19 U.S.C. 160(a)). (43 F.R. 38495, published in the Federal Register of Aug. 28, 1978).

Section 201(a) of the act (19 U.S.C. 160(a)) gives the U.S. International Trade Commission responsibility for the determination of injury. The Commission has determined, and on November 24, 1978, it notified the Secretary of the Treasury, that an industry in the United States is being injured by reason of the importation of steel wire strand from Japan that is being sold at less than fair value within the meaning of the Act. (43 F.R. 55826, published in the Federal Register of Nov. 29, 1978).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to steel wire strand from Japan, except that produced by Kawatetsu Wire Products Co., Ltd.

For purposes of this notice, the term "Steel wire strand" means steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, provided for in item number 642.1120 of the Tariff Schedules of the United States Annotated (TSUSA).

Accordingly, section 153.46 of the Customs Regulations (19 CFR 153.46) is amended by adding the following to the list of findings of dumping in effect.

Merchandise	Country	Treasury Decision
Steel wire strand, other than that produced by Kawatetsu Wire Products Co., Ltd.	Japan	78-487

(Secs. 201, 407, 42 Stat. 11, as amended, 18; (19 U.S.C. 160, 173).)

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[Published in the Federal Register, Dec. 8, 1978 (43 F.R. 57599)]

(T.D. 78-488)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds) Customs form 7605

The following consolidated aircraft bond has been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: November 30, 1978.

Name of principal and surety	Date term commences	Date of approval	Filed with area director of Customs; amount
Compagnie Nationale de Transports Aeriens Royal Air Maroc a/k/a Royal Air Maroc Airlines, 680 Fifth Ave., New York, NY; Insurance Company of North America (PB 9/27/76) D 9/27/78 [1]	Sept. 27, 1978	Sept. 27, 1978	J.F.K. Airport; $100,000

[1] Surety is American Drugists' Insurance Co.

The foregoing principal has not been designated as a carrier of bonded merchandise.

(BON-3-01)

DONALD W. LEWIS
(For Leonard Lehman, Assistant Commissioner, Regulations and Rulings).

(T.D. 78-489)

Tariff Classification—Wide Angle Bicycle Reflectors

Notice that wide-angle bicycle reflectors are reclassified as bicycle parts

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Decision concerning an American manufacturer's petition.

SUMMARY: The Customs Service has reviewed a petition filed by an American manufacturer of wide-angle bicycle reflectors, requesting that wide-angle bicycle reflectors, currently classifiable under the pro-

vision for other articles of rubber or plastics not specially provided for, in item 774.60, Tariff Schedules of the United States (TSUS), be reclassified under the provision for parts of bicycles, in item 732.37, TSUS. The Customs Service has examined the wide-angle bicycle reflectors and determined that, by their design and function, the reclassification requested by the petitioner is proper.

DATES: This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the CUSTOMS BULLETIN.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202–566–8181.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 6, 1978, a notice was published in the Federal Register (43 F.R. 14562) indicating that the Customs Service had received a petition from an American manufacturer requesting the reclassification of wide-angle bicycle reflectors as parts of bicycles, in item 732.37 of the Tariff Schedules of the United States. The reflectors are currently classifiable under the provision for other articles of rubber or plastics not specially provided for, in item 774.60, TSUS.

Under general headnote 10(ij), TSUS, a provision for parts of an article covers a product solely or chiefly used as a part of the article, but does not prevail over a specific provision for such part. There is no specific provision for reflectors in the TSUS. The American manufacturer contends that, because the wide-angle bicycle reflectors are specially designed for use as parts of bicycles, and are made to conform with Federal safety standards for required bicycle equipment, the chief use of the wide-angle bicycle reflectors is as parts of bicycles, which results in their proper classification in item 732.37, TSUS.

DISCUSSION OF COMMENTS

Several comments were received concerning the request for reclassification. The commenters contend that:

(1) Wide-angle bicycle reflectors have more than one use, and can be used as part of a tricycle, motorcycle, motocross vehicle, or automobile, or as a highway marking, safety tunnel, or guardrail reflector; and

(2) There is no basis for separating wide-angle bicycle reflectors from other wide-angle reflectors, also classifiable under the provision for other articles of rubber or plastics not specially provided

for, in item 774.60, TSUS, because each reflector has similar reflecting components and differs only slightly in mounting equipment.

DETERMINATION

The Customs Service has determined that wide-angle bicycle reflectors constitute a class or kind of merchandise which is distinct from conventional or angled reflectors. The conventional reflector contains prisms with axes that are parallel and perpendicular to the front surface of the reflector, and is capable of effectively reflecting light within 20 degrees of a line perpendicular to the surface. The angled reflector contains prisms with axes that are all tilted at the same angle to the front surface, and are parallel to each other, and also has a 20-degree reflecting capability. The wide-angle reflector has several sections. In one section the prism axes are parallel and perpendicular to the front surface, and in the other sections the prism axes are tilted either to the left or to the right of the incident light. As a result, the wide-angle reflector is able to reflect light which is incident upon it from a wider angle than the conventional or angled reflectors.

Under part 1512 of the Federal bicycle regulations (16 CFR 1512), all bicycles introduced into interstate commerce must be equipped at the point of sale to the consumer with wide-angle reflectors. The reflectors, designed to permit recognition of the bicycle when illuminated by motor vehicle headlamps, are required to reflect incident light up to 50 degrees to the left or right of a line perpendicular to the reflector surface. An examination of the wide-angle bicycle reflectors submitted by petitioner demonstrates that by their design and function, the wide-angle reflector and the various mounting assemblies, which may only be used to attach the reflectors to the front, rear, or spokes of a bicycle as required by Federal standards, are specifically intended for use on a bicycle.

The Customs Service has determined that the wide-angle bicycle reflectors are necessary for the safe use of bicycles and are chiefly used in the United States on bicycles. Accordingly, the wide-angle bicycle reflectors are properly classifiable under the provision for parts of bicycles, in item 732.37, TSUS.

Dated: December 4, 1978.

G. R. DICKERSON,
Acting Commissioner of Customs.

[Published in the Federal Register December 11, 1978 (43 FR 57999)]

General Notice

Watches and Watch Movements

(058450)

(19 CFR Part 177)

Tariff classification under general headnote 3(a), Tariff Schedules of the United States: Change of practice considered

AGENT: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed change of practice.

SUMMARY: This document gives notice that the Customs Service is reviewing the current practice of according duty-free treatment to watches and watch movements pursuant to general headnote 3(a), TSUS. The Customs Service has ruled that certain watches and watch movements assembled in the insular possessions from foreign watch subassemblies and parts satisfy the "manufactured or produced" requirements of general headnote 3(a), TSUS. The Customs Service is contemplating a change of this practice. If the practice is changed, watches and watch movements which are not subjected to sufficient processing in the insular possessions would be dutiable pursuant to subpart E, part 2, schedule 7, TSUS.

DATES: Comments must be received on or before 60 days from the date of publication in the Federal Register.

ADDRESS: Comments should be addressed to the Commissioner of Customs, attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Alan W. Brick, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; 202-566-5727.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under a uniform and established practice, the Customs Service accords duty-free treatment to importations of certain watches and watch movements from the insular possessions, pursuant to general headnote 3(a), Tariff Schedules of the United States (TSUS).

GENERAL HEADNOTE 3(a), TSUS

Under general headnote 3(a), TSUS, watches and watch movments imported from an insular possession may enter the Customs territory of the United States free of duty if they:

(1) Are manufactured or produced in the possession,
(2) Do not contain foreign materials which represent more than 70 percent of their total value and,
(3) Come directly to the Customs territory of the United States from the possession.

In order to satisfy the "manufactured or produced" requirement of general headnote 3(a), TSUS, Customs has ruled that a new and different article of commerce must result from the operations performed in the insular possession.

The insular possessions include the Virgin Islands, American Samoa, and Guam. The Customs territory of the United States includes the 50 States, the District of Columbia, and Puerto Rico.

General headnote 3(a), TSUS, embodies a legislative intent to promote the growth of the economies of the insular possessions by stimulating the development of light industry, such as watch assembly. (S. Rept. No. 94–273, 94 Cong., 1st sess. (1975), reprinted in 1975 United States Code Cong. & Ad. News at 884, et seq.).

PROPOSED CHANGE OF PRACTICE

The Customs Service is considering a change in the practice of according duty-free treatment, pursuant to general headnote 3(a), TSUS, to certain watches and watch movements imported from the insular possessions. In some instances, "low-labor" watches and watch movements which are subjected to limited processing in an insular possession have been accorded duty-free treatment under general headnote 3(a), TSUS. For example, in some cases, the value added in direct labor cost has been as little as 10 percent of the cost of the foreign components. This raises the question whether the present practice requires sufficient processing to warrant a finding that these "low-labor" watches and watch movements are "manufactured or produced" in the insular possessions.

Accordingly, the Customs Service will review written comments submitted, and if it is determined that the present practice is "clearly wrong" (see 19 CFR 177.10(b)), the Customs Service will propose for public comment a new practice.

COMMENTS

Consideration will be given to any written comments submitted to the Commissioner of Customs, preferably in triplicate. Comments

submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, room 2335, 1301 Constitution Avenue NW., Washington, D.C.

AUTHORITY

This notice is published pursuant to section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and section 177.10(c) of the Customs Regulations (19 CFR 177.10(c)).

DRAFTING INFORMATION

The principal author of this notice was Alan W. Brick, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the U.S. Customs Service participated in developing this notice, both on matters of substance and style.

LEONARD LEHMAN,
Commissioner of Customs.

Approved: November 3, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[Published in the Federal Register, Dec. 11, 1978 (43 F.R. 57921)]

Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, and not otherwise published, is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Treasury decisions, the listing describes the issues involved and is intended to aid Customers officers and concerned members of the public in identifying matters of interest which recently have been considered by the Office of Regulations and Rulings.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings, attention: legal reference area, room 2404, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. These copies will be made available at a cost to the requester of 10 cents per page. However, the Customs Service will waive this charge if the total number of pages copied is 10 or less.

Decisions previously listed in earlier issues of the CUSTOMS BULLETIN are now available in microfiche format through subscription. It is anticipated that additions to the microfiche will be made quarterly. The cost for the first set of microfiche is $2.55 (15 cents per sheet of fiche). Requests for this first set and for subscriptions should be directed to the legal reference area. Subscribers will automatically receive updates as issued and will be billed accordingly.

Date: December 4, 1978.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

Date of decision	File No.	Issue
10–27–78	306286	Entries: failure of U.S. government agency to make timely entries
10–25–78	306366	Collections and refunds: refund of duties for television sets prohibited entry due to noncompliance with government requirements
10–30–78	306660	Entry: conditions for the purchase by municipal police department of guns denied entry and held by Customs as general order merchandise
11–1–78	306679	Liquidation: effect of naming wrong importer on notice of liquidation
11–1–78	306689	Entry: effect of entry at different ports of a ski lift and parts, which if entered as an entirety would have been subject to a lower rate of duty
10–27–78	709321	Country of origin marking: electro-surgical apparatus
10–18–78	046875	Classification: hand-loomed woven textile material
6–21–78	046885	Classification: metribuzin, a herbicide
10–27–78	051929	Classification: man's cross-country ski-boot; vinyl golf shoe
6–29–78	052438	Classification: woven fabric of man-made fiber, used in sludge denaturing machine for filtration and conveyance
9–21–78	052626	Classification: woven fabric made from clear man-made fiber strips coated on one side with clear polyethylene
7–13–78	052879	Classification: synthetic rubber
8–23–78	053895	Classification: curtains with replique hem and embroidery
7–17–78	053921	Classification: perfume formulations
6–21–78	054225	Classification: bush jacket
7–11–78	054587	Classification: polypropylene placemats
10–16–78	054634	Classification: articles of wearing apparel to which strap fasteners resembling epaulets are affixed
10–6–78	054671	Classification: crude dibasic acid
10–26–78	055092	Classification: tire used on logging skidder

Date of decision	File No.	Issue
10–25–78	055279	Classification: driveshafts for outboard motors
10–25–78	055281	Classification: toy walkie-talkie phone sets
10–26–78	055293	Value: applicability of American selling price to open toe, open back sandals from Taiwan
10–16–78	056197	Classification: insulating wall panels
10–25–78	056568	Classification: crystal shapes used in making jewelry
10–25–78	057156	Classification: tote bag in chief value of raffia
10–27–78	057183	Classification: thread clips or thread snippers
10–26–78	057272	Classification: bicycle hub brake and axle
10–25–78	057281	Classification: motorized surfboard
10–25–78	057292	Classification: cluster remover, designed to remove freewheels from bicycles
10–25–78	057369	Classification: wood and canvas chairs
10–25–78	057383	Classification: official coin of gold and silver
10–26–78	057403	Classification: auto spotlight of plastic, designed to be plugged into cigarette lighter
10–31–78	057437	Classification: steel blades used in automatic peach pitting and other food processing machines
6–15–78	059009	Classification: woven denim jeans to which a D-ring is attached
7–5–78	059026	Classification: woven cotton fabric that has been coated with an adhesive and flocked with wool fibers
7–12–78	059048	Classification: Dioctyl Phthalate, used as a plasticizer for resins and synthetic rubbers
7–24–78	059069	Classification: Cyclandelate, an antispasmodic
7–5–78	059121	Classification: woven fabrics of man-made fibers, coated with a polyethylene film
6–21–78	059223	Classification: oven mitt potholder of woven fabric
6–12–78	059227	Classification: cotton pillowcases and comforters
7–12–78	059255	Classification: apple baskets of wood
10–25–78	059267	Classification: shirts to which textile labels bearing stylized lettering have been affixed
6–27–78	059292	Classification: lead gasoline additives
5–16–78	059311	Classification: cotton cincture cords with tassel at each end
7–19–78	059344	Classification: barytes (barium sulfate) in the form of filter cake
7–13–78	059376	Classification: woven fabrics of nylon
7–13–78	059399	Classification: Struktol 30 (40MS), a product derived from fractionation of asphalt
10–26–78	059419	Classification: various materials faced with banana bark
7–13–78	059450	Classification: T-shirt with stylized label
7–13–78	059461	Classification: m-tolylthioacetic acid
7–24–78	059484	Classification: Endomine-MMF/LS, or casein hydrolysate, hydro glycolic extract
7–13–78	059501	Classification: yarns of man-made fibers, one type being of continuous fibers without a twist, the other being multifilament two ply texturized yarn with less than 20 turns per inch

Date of decision	File No.	Issue
7–13–78	059509	Classification: softwood siding
7–7–78	059526	Classification: olive oil
10–25–78	059542	Classification: ski jackets with plastic exterior, nylon lining, and polyester batting
7–24–78	059555	Classification: benzenoid product used as a swimming pool sanitizer
7–24–78	059637	Classification: zinc sulfate
10–20–78	059646	Classification: papers impregnated and coated with vinyl elastomers or polyamide resins
8–23–78	059671	Classification: fringed polyester hammocks woven from yarns of American origin.
8–23–78	059685	Classification: cyanoacrylate adhesive, and ethoxylated difunctional methacrylate monomers, used as adhesives or sealants
9–20–78	059697	Classification: "non-poultry chicken fat" made from hydrogenated cottonseed oil
10–12–78	059700	Classification: pigweed seeds, used to produce a food product known as Quinoa
10–28–78	059717	Classification: epoxy glues and putty
8–30–78	059733	Classification: handmade Indian rugs of wool
9–26–78	059738	Classification: shelled cashew nuts
10–20–78	059742	Classification: plied twine of man-made fibers
10–20–78	059771	Classification: selenium sulfide, used in antidandruff preparations
10–20–78	059783	Classification: fungicide antibiotic used to combat the formation of molds and yeasts on cheese
10–12–78	059784	Classification: invertase enzyme derived from yeast, used to break down disaccharide sucrose into its component sugars
10–18–78	059785	Classification: dried, inactive yeast
10–12–78	059788	Classification: product containing alpha amylase enzyme
10–16–78	059789	Classification: an active wine yeast used in the production of wine
10–16–78	059808	Classification: food powder ingredient called Bavaroise-powder
10–25–78	059819	Classification: wood easel pie plate
10–18–78	059828	Classification: food supplements made of sorbic acid in mixture with other chemicals
10–24–78	059855	Classification: plywood with a face ply of Pau Marfim
10–16–78	059862	Classification: "Jerusalem granola," a food product of rolled oats brown sugar, coconut, sesame seed, wheat germ, vegetable oil, almonds, vanilla, and honey
10–20–78	059867	Classification: dextrose and levulose
10–16–78	059910	Classification: papyrus

ERRATUM

In Customs Bulletin, Vol. 12, No. 45, dated November 8, 1978, in T.D. 78–407–W, on page 62, correct line 8 to read:

to cover additional factories above and to terminate Modesta,

In Customs Bulletin, Vol. 12, No. 45, dated November 8, 1978, in T.D. 78–394, on page 10 under Part 141; item 2 should read "Section 141.11(a)(2)" rather than "Section 143.11(a)(2)". In the middle of page 12, the centerheading should be "Part 145—MAIL IMPORTATIONS" rather than "Part 144—MAIL IMPORTATIONS".

Decisions of the United States Customs Court

Customs Judgment

Judgment of the United States Customs Court in Appealed Case
November 22, 1978

Appeal 77-23.—Kurt Orban Co., Inc. *v.* United States.—STEEL BARS, REAPPRAISEMENT OF—EXPORT VALUE—SEPARABILITY OF APPRAISEMENT.—C.D. 4697 reversed June 15, 1978 (C.A.D. 1209), rehearing denied August 10, 1978.

Appeal to Unied States Court of Customs and Patent Appeals

Appeal 79-7.—United States *v.* H. Rosenthal Co.—MEN'S AND BOYS' QUILTED SNORKEL PARKAS—WEARING APPAREL—GARMENTS DESIGNED FOR RAINWEAR OF COATED FABRICS—TSUS. Appeal from C.D. 4769.

In this case, men's and boys' quilted snorkel parkas were assessed with duty at 25 cents per pound plus 27.5 percent ad valorem under

item 380.84, Tariff Schedules of the United States, as other men's or boys' wearing apparel, not ornamented, of manmade fibers, not knit. The merchandise was held properly dutiable, as claimed by plaintiff-appellee, at 16.5 percent under the provision in item 376.56, as modified by T.D. 68–9, for garments designed for rainwear of fabrics which are coated or filled or laminated, with rubber or plastics, which (after applying headnote 5 of schedule 3) are regarded as textile materials.

It is claimed that the Customs Court erred in finding and holding that the subject merchandise is properly classifiable under item 376.56, supra; in not finding and holding that the merchandise was properly classified under item 380.84, supra; in finding and holding that the merchandise was "coated" as that term is defined in schedule 3, part 4, subpart C, headnote 2(a), TSUS.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

(AA1921–190 and 191)
Rayon Staple Fiber from France and Finland
NOTICE OF INVESTIGATION AND HEARING

Having received advice from the Department of the Treasury on November 13, 1978, that viscose rayon staple fiber from France and from Finland is being, or is likely to be, sold at less than fair value, the U.S. International Trade Commission on November 28, 1978, instituted investigation Nos. AA1921–190 and 191 under section 201(a) of the Antidumping Act, 1921 as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing.—A public hearing in connection with the investigations will be held on Thursday, January 4, 1979, in the Commission's hearing room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t. All persons shall have the right to appear in person or by counsel, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Friday, December 29, 1978.

By order of the Commission.

Issued: November 29, 1978.

KENNETH R. MASON,
Secretary.

In the Matter of
DOXYCYCLINE
Investigation No. 337–TA–3

NOTICE OF COMMISSION HEARING ON RELIEF, BONDING, AND THE PUBLIC INTEREST

Recommendation of "violation" issued.—In connection with the Commission's investigation under section 337 of the Tariff Act of 1930 of alleged unfair methods of competition and unfair acts in the importation and sale of doxycycline in the United States, the presiding officer recommended on October 16, 1978, that the Commission grant complainant's motion for summary determination as to all issues and determine that there is a violation of section 337. Interested persons may obtain copies of the presiding officer's recommendation by contacting the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0161.

Commission hearing scheduled.—The Commission will hold a hearing beginning at 10 a.m., e.s.t., on Tuesday, February 6, 1979, in the Commission's hearing room (room 331), 701 E Street NW., Washington, D.C. 20436. The purpose of the hearing is for the Commission to receive oral presentations concerning appropriate relief, bonding, and the public interest in the event that the Commission determines that there is a violation of section 337. This hearing will be held on 1 day only in order to facilitate the completion of this investigation within time limits under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for the hearing follows.

Oral presentations on relief, bonding, and the public interest.—A party to the investigation, an interested agency, a public interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.*—In the event that the Commission finds a violation of section 337, it can issue (1) an order which could result in the exclusion from entry of doxycycline into the United States, or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of doxycycline. During the course of the investigation, the question was raised as to whether the Commission could issue both an order that would exclude foreign-produced doxycycline from entry into the United States and an order that would require respondents to cease and desist from sales of foreign-produced doxycycline already imported into the United States (see the presiding officer's recommended determination, finding of fact No. 7, p. 7).

The Commission is interested in receiving information on all three alternatives.

2. *Bonding.*—In the event that the Commission finds a violation of section 337 and orders some form of relief, that relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period, the doxycycline, which is the subject of this investigation, would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.*—In the event that the Commission finds a violation of section 337 and orders some form of relief, the Commission must consider the effect of that relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order, cease and desist order, granted either alternatively or together, upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

A party to the Commission's investigation, an interested agency, a public interest group, or any interested person wishing to make an oral presentation concerning relief, bonding, and the public interest will be limited to no more than 30 minutes. Participants will be permitted an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: Complainant, respondents, interested agencies, public interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing.—If you wish to appear at the Commission's hearing, you must file a written request to appear with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.s.t.) on Wednesday, January 10, 1979. Your written request must indicate whether your oral presentation will concern relief, bonding, the public interest, or a combination of these.

Written submissions to the Commission.—The Commission requests that written submissions be filed prior to the hearing in order to focus the issues and facilitate the orderly conduct of the hearing.

1. *Written comments and information concerning relief, bonding, and the public interest.*—Parties to the Commission's investigation, interested agencies, public interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest.

These written submissions will be very useful to the Commission in the event that it determines that there is a violation of section 437 and that relief should be granted.

Written comments and information concerning relief, bonding, and the public interest shall be submitted as follows. First, complainant shall file a detailed proposed Commission action, including a proposed determination of bonding, a proposed order granting relief, a discussion of how this order will be enforced, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, with the Secretary to the Commission no later than the close of business on Tuesday, December 26, 1978. Second, other parties, interested agencies, public interest groups, and other interested members of the public shall file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public interest considerations listed above no later than the close of business on Monday, January 22, 1979.

2. *Written report on the public interest factors to be submitted by the Commission investigative staff.*—The Commission's investigative staff will file and serve upon all parties a formal report on the public interest factors to be considered by the Commission together with the staff's recommendations and conclusions no later than January 22, 1979.

Additional information.—The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. If you wish to submit a document (or a portion thereof) to the Commission in confidence, you must request "in camera" treatment. Your request should be directed to the Chairman of the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return the submission to you. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Notice of the Commission's investigation was published in the Federal Register of May 2, 1973 (38 F.R. 10837), and the notice of reactivation was published in the Federal Register of February 21, 1978 (43 F.R. 7273).

By order of the Commission:

Issued: November 27, 1978.

KENNETH R. MASON.
Secretary.

In the Matter of:
CERTAIN CIGARETTE HOLDERS } Investigation No. 337–TA–51

NOTICE OF COMMISSION HEARING ON PRESIDING OFFICER'S RECOMMENDATION, RELIEF, BONDING AND THE PUBLIC INTEREST

Recommendation of "no violation" issued.—In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain cigarette holders in the United States, the presiding officer recommended on October 23, 1978, that the Commission determine that there is no violation of section 337. The presiding officer certified the hearing record to the Commission for its consideration. Copies of the presiding officer's recommendation may be obtained by interested persons by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0161.

Commission hearing scheduled.—The Commission will hold a hearing beginning at 10 a.m., e.s.t., Wednesday, February 21, 1979, in the Commission's hearing room (room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral argument on the presiding officer's recommendation that there is no violation of section 337 of the Tariff Act of 1930. Second, the Commission will receive oral presentations concerning appropriate relief, bonding, and the public interest in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

Oral argument on presiding officer's recommendation.—A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: Respondents, complainants, interested agencies, and Commission investigative staff.

Oral presentations on relief, bonding, and the public interest.—Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.*—In the event that the Commission were to find a violation of section 337, it would issue (1) an order which could result in the exclusion from entry of certain cigarette holders into the United States, or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of these cigarette holders. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.*—In the event that the Commission were to find a violation of section 337 and order some form of relief, that relief would not become final for a 60-day period during which the President would consider the Commission's report. During this period, the certain cigarette holders would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.*—In the event that the Commission were to find a violation of section 337 and order some form of relief, the Commission must consider the effect of that relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

A party to the Commission's investigation, an interested agency, a public interest group, or any interested person wishing to make an oral presentation concerning relief, bonding, and the public interest will be limited to no more than 15 minutes. Participants will be permitted an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: Complainant, respondents, interested agencies, public interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing.—If you wish to appear at the Commission's hearing, you must file a written request to appear with the Secretary to the Commission, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.s.t.) on Wednesday, February 7, 1979. Your written request must indicate whether you wish to present an oral argument concerning the presiding officer's recommendation or an oral presentation concerning relief, bonding, and the public interest, or both. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may pre-

sent an oral argument concerning the presiding officer's recommendation, public interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written submissions to the Commission.—The Commission requests that written submissions of two types be filed prior to the hearing in order to focus the issues and facilitate the orderly conduct of the hearing.

1. *Briefs on the presiding officer's recommendation.*—Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Prehearing briefs must be filed with the Secretary to the Commission by no later than the close of business on Wednesday, February 7, 1979. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions are encouraged to consolidate their briefing, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.*—Parties to the Commission's investigation, interested agencies, public interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These written submissions will be very useful to the Commission in the event it determines that there is a violation of section 337 and that relief should be granted.

Written comments and information concerning relief, bonding, and the public interest shall be submitted in this order. First, complainant shall file a detailed proposed Commission action, including a proposed determination of bonding, a proposed remedy, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, with the Secretary to the Commission by no later than the close of business on Wednesday, January 31, 1979. Second, other parties, interested agencies, public interest groups, and other interested members of the public shall file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public interest considerations listed above by no later than the close of business on Wednesday, February 14, 1979.

Additional information.—The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. If you wish to submit a document (or a portion thereof) to the Commission in confidence, you must request "in camera" treatment. Your request should be directed to the Chairman of the Commission and must include a full statement of the reasons for granting "in camera" treatment. The Commission will either accept such submission in confidence, or it will return the submission to you. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Notice of the Commission's investigation was published in the Federal Register of March 29, 1978 (43 F.R. 13104).

By order of the Commission:

Issued: November 22, 1978.

KENNETH R. MASON,
Secretary.

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Customs Court

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